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A history of the child labor amendment.

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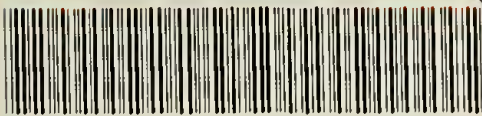
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A HISTORY OF THE CHILD LABOR AMENDMENT

HALL - 1938

A HISTORY OF
THE CHILD LABOR AMENDMENT

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TABLE OF CONTENTS

CHAPTER	PAGE
INTRODUCTION	1
I. EARLY REGULATION OF CHILD LABOR	10
II. THE AMENDMENT IN COMMITTEE	38
III. CONGRESSIONAL ACTION	78
IV. THE AMENDMENT BEFORE THE STATES	98
CONCLUSION	123
BIBLIOGRAPHY	132
APPENDICES	137

INTRODUCTION

Almost fourteen years have passed since the Congress of the United States voted to submit to the states a constitutional amendment giving Congress power to regulate labor of persons under eighteen years of age. During these years the amendment has been a topic of continuous discussion. Naturally the amount of printed matter concerning the amendment is copious. If only the amount were considered, one would think that everything possible had already been written on the subject. The quality of the available material, however, is not so consistently great as its quantity, and the value of much of it for historical record is to be doubted.

Recent general histories of the United States contain, at most, a brief account of the amendment in relation to the previous attempts at federal regulation of child labor, and the status of its ratification by states. One reason for the small space devoted to this amendment is the fact that it was at no time an issue between the political parties. As an economic or a social question it merely holds its place among the myriad other attempts at social legislation. One recent American history has only a paragraph:

Within two years after the failure of the second attempt to regulate child labor by statute, the

opponents of child labor succeeded in pushing through Congress a Constitutional Amendment giving Congress the 'power to limit, regulate and prohibit the labor of persons under eighteen years of age.' By 1937 twenty-eight states had ratified this amendment. Prospects for ratification by the remaining eight necessary for adoption seemed excellent until New York State rejected it.¹

On the other hand, studies of labor problems do not go into the political aspects of the amendment or its history in any detail. They are more directly concerned with the condition of child laborers and with legislation affecting the general fields of labor. The only study of this type which contains anything approaching a complete history of the amendment is a chapter on child labor legislation by Elizabeth Sands Johnson, in one of four volumes which together embody a history of labor in the United States.² This chapter covers the whole field of child labor legislation, national and state, and although the account of the federal amendment is good, it is necessarily brief, including only the principal features in passage of the resolution through Congress and subsequent ratification. A book by John R. Commons and John B. Andrews, Principles

¹ Samuel E. Morison and Henry S. Commager, The Growth of the American Republic (rev. ed.), vol. II, p. 169.

² Elizabeth Brandeis, "Labor Legislation" in John R. Commons and Associates, History of Labor in the United States, 1896-1932, vol. III.

of Labor Legislation, has only a bare statement of when the amendment was passed and the status of ratification in 1936.³

A study by Raymond G. Fuller, Child Labor and the Constitution, published in 1923, deals largely with the two federal child labor statutes in relation to the United States Constitution. As far as a child labor amendment is concerned, the author only discusses its advisability and the form it should take.

Two volumes of the University Debaters' Annual⁴ and two bulletins issued by educational institutions⁵ contain briefs for debates upon the amendment which present the principal arguments for and against it. They include, too, bibliographies on the amendment which are useful for the years they cover. Since all were printed before 1927, their use is limited. Brief extracts of articles and speeches (classified as affirmative and negative on the question of ratification) are printed in these studies.

Julia E. Johnson has compiled Selected Articles on

³ 4th ed. p. 174.

⁴ Edith M. Phelps, ed., 1924-1925, vol. XI, pp. 367-414; 1925-1926, vol. XII, pp. 341-403.

⁵ Marion A. Olson, The Child Labor Amendment, Univ. of Texas Bul. 2529; J. W. Scroggs and E. Andrews, ed., The Child Labor Amendment to the Constitution of the United States, Univ. of Oklahoma Bul.

Child Labor which includes a brief history of child labor legislation, but it is largely devoted to debates and arguments on the amendment (as voiced in various articles and speeches). These sources are reproduced in whole or in part, and the volume proved useful as a survey of expressed opinion at the time the amendment was passed.

The Children's Bureau of the United States Government published a booklet in 1930 on child labor throughout the country, and its regulation; but this, too, contains only a brief statement on the federal amendment.⁶

An interesting analysis of propaganda methods in regard to the measure is "Propaganda and the Proposed Child Labor Amendment" by J. E. Hulett, Jr.⁷ It is largely devoted to the campaigns for and against ratification and is summarized in connection with the present study of the amendment before the states.

Other than the works mentioned, practically none of the extensive literature on the child labor amendment can be considered reliable as history. The amendment has been

⁶ United States Department of Labor, Children's Bureau, Publication 197, Child Labor: Facts and Figures.

⁷ E. Pendleton Herring, ed., "Organized Groups", The Public Opinion Quarterly, vol. II, (Jan. 1938) pp. 105-115.

before the states for approval for over thirteen years, and one factor or another has kept up a degree of public interest in its ratification. This means that the question has been continually debated, and that an almost unbroken succession of related articles in periodicals, in newspapers, and in pamphlets, has gone through the press. But, because the question has not been settled, and because ratification by the requisite number of states is still possible, these articles have the function of influencing, or trying to influence, the public. They are not to be condemned for this reason; they merely lose their value as historical fact or scientific history because of the more or less obvious motives of their authors. The National Child Labor Committee, with its headquarters in New York City, is an admirable organization and has done an immense amount of work in reducing child labor in the United States. This committee puts forth a tremendous quantity of literature which looks authentic; and the facts presented are undoubtedly true as far as they go. But the very fact that this group has worked hard to get the child labor amendment ratified means that it will print facts and interpret them in a way favorable to creating the impression it wishes the reader to retain. For example, it has issued a handbook on the Federal Child Labor Amendment which states the main facts in connection with passage and ratification of the amendment, but it is neither complete nor entirely

unbiased. This Committee and other such organizations present one side of the picture, while the elements opposed to the amendment show the other side. Neither is entirely false, but neither presents the whole truth. A history should be accurate and show all the important sides of the question.

It might be argued that a history of this constitutional amendment should not be attempted until it becomes a settled affair, but the very fact of its being undecided makes it a more interesting, if a more difficult, problem. The possibility of adopting the amendment as a part of our law should make every citizen of the United States an interested student of its history and of the arguments for and against it. If the amendment is not ratified, or if its ratification is declared invalid, a history is still valuable as a record of this amendment, and as a basis of knowledge for other national legislation or constitutional amendments which have been and will be proposed to do the work that this one failed to do.

Moreover, this study will be of interest as typical of the struggle for social legislation which characterizes the present stage of our country's development. Organizations have worked continually for many years to procure the relatively few statutes that have been enacted into law. Maximum hour standards for work of government employees and people engaged in hazardous work, such as railroading, have

been followed by agitation for general restrictions on wages and hours, old age pensions, and innumerable other types of social legislation. The fact that the Constitution does not provide for any type of social legislation has made the long struggle infinitely harder. Many times, when a law has been passed only to be found unconstitutional by the courts, it has seemed even useless. Here again the child labor question is typical, for the constitutional amendment to give Congress power to regulate child labor followed in the wake of two laws, based on two different clauses in the Constitution, which were found invalid by the United States Supreme Court.

In this paper the history of the child labor amendment will be presented with an interpretation of the facts in order to answer three questions: first, why was the amendment introduced? second, what factors influenced Congress to pass it? and third, why has it not been ratified to date? To portray accurately the reasons behind introduction of the amendment, it will be necessary to review previous state and national laws regulating child labor as well as to give an estimate of their effectiveness. The organization of public opinion in regard to child labor and its regulation by federal law will be summarized. As far as it is possible to obtain an accurate statement of child labor conditions in 1924, that will be included.

The answer to the first question lays a foundation for

the study and resulting conclusions on the two remaining questions. In determining the factors which influenced Congress to pass the amendment resolution, one has to consider the character of the organizations and of the individuals connected with its introduction in the House of Representatives and the Senate, and the type of groups which supported and opposed its passage. A review of the hearings conducted by both House and Senate committees to which the resolution was referred is included for this purpose. Then the Congressional debates and votes upon the measure are interpreted to demonstrate possible partisan alignment or telling geographical distribution of the members which might have been factors in the favorable vote it received.

To answer the question of why an insufficient number of state legislatures have ratified the amendment, the most exact method would be a study of each state, similar to that undertaken in connection with Congress. Such a project would involve studying the proceedings (rarely available) of forty-eight state legislatures, and repeating this process as many times each legislature has considered ratification. The scope of this work will not cover such an elaborate study; thus the reasons for ratification or rejection must rest, for the present at least, upon a knowledge of the propaganda circulated in the states to influence them for or

against the amendment, and on such statements of public opinion and state action as can be found in newspapers, periodicals, and public addresses. Even then, the study will be far from exhaustive in the field it essays to cover. A brief statement of the legal question involved in ratification will be included.

CHAPTER I

EARLY REGULATION OF CHILD LABOR

The employment of children was first regarded as an evil in the United States about the middle of the nineteenth century. Previous to that, work for children had been considered beneficial and fully as important for a child's development as modern theory holds education or play. But the rapid rise of industry from 1850 on, and the keen competition engendered by it brought the widespread employment of children where conditions of work were frequently poor, particularly in factories and mines, and the hours long. Then a gradual change in popular sentiment took place and moves were started to regulate child labor. Massachusetts passed the first maximum hour law in 1842, and in Pennsylvania the first minimum age provision was made in 1843.¹ By 1879, seven states had set a minimum age, and twelve states, maximum hours for children at work.² Twenty years later, the

¹ Ten hours a day in Massachusetts. Minimum age of twelve years in Pennsylvania. Elizabeth Sands Johnson, Child Labor Legislation, p. 403n.

² Massachusetts, New Hampshire, New Jersey, Pennsylvania, Rhode Island, Vermont, Wisconsin had minimum age laws; Connecticut, Indiana, Maine, Maryland, Massachusetts, Minnesota, Ohio, Pennsylvania, Rhode Island, South Dakota, Vermont, Wisconsin had maximum hour regulation. Ibid., p. 403.

number of states having laws to regulate child labor had increased to twenty-eight. However, the advance was not yet marked with great success; for the typical law before 1900 was limited to children employed in manufacturing, fixed the minimum age at twelve years and the maximum hours at ten a day, had only sketchy requirements for literacy and school attendance, and required only the word of the parent for proof of a child's age.³

The Knights of Labor actively supported child labor legislation, and many of the laws enacted during this period were largely the results of their influence. However, the American Federation of Labor which succeeded them in the nineties was not so concerned with protective legislation for children, and the next emphatic advocates were the child labor committees which grew up, commencing with the Alabama Committee in 1901. This local Committee had been formed by citizens as a protest against the exploitation of children by the growing textile industry in southern states. At the same time that these states were passing their first regulations, northern states were trying to raise their standards and particularly to improve on the administration of their laws. Thus the first child labor laws were products of

³ Ibid., p. 405.

opposition to local situations as they developed.

As early as 1902 there was evidence of nationwide concern over the matter. That year the American Academy of Political and Social Science devoted, for the first time, a session of its annual meeting to discussion of the child labor problem. There was also a great increase over previous years in periodical literature on the subject of child labor. In 1904 the National Child Labor Committee was organized, and in 1910 there were twenty-five state and local committees, representing twenty-two states, which worked with the national organization. The National Committee proposed to abolish child labor throughout the country and went about it with no less system than enthusiasm. It conducted investigations of all the industries where child labor conditions were worst and published reports of its findings. In the interests of child workers a bulletin was issued, and Child Labor Day was observed in schools and churches every year after 1908. The Committee studied administration of laws and lobbied in state legislatures for regulation of child labor.

By 1900 state laws contained most of the elementary principles of modern ones: minimum age and maximum hour standards, a minimum educational requirement, and rules to protect children in and from hazardous employment. In the field of state legislation during the period from 1900 to 1916, opponents of child labor were principally concerned

with devising specific standards and methods of administration.⁴

A drive had also been started for federal regulation of child employment, and in 1906 bills were introduced in the House and Senate to meet this demand. In the eighties such a law had been included in the program of the Knights of Labor, but this was the first concerted attempt to gain the end. In 1906, Senator Beveridge of Indiana and Representative Parsons of New York introduced bills to prevent employment of children in mines and factories, while Senator Lodge of Massachusetts introduced one to prohibit the transmission in interstate commerce of goods made by child labor.

The move to end child labor by national law was essentially a part of the whole progressive movement in the early twentieth century. Senator Beveridge, eloquent spokesman for Progressive Republicans, started the fight to end child slavery in 1906. Although Congress was impressed by his tirades against exploitation of children and the inadequacy of state action, it was impossible to get a law passed in the face of President Roosevelt's plain hostility, and the indifference of organized labor and the National Child Labor Committee. Not until President Wilson personally insisted on a national child labor law did the dreams of

⁴ Ibid., pp. 403-437.

Progressives become a reality. The same was true of other Progressive plans. Currency reform was finally brought about in a Democratic administration, through Wilson's establishment of the Federal Reserve System.⁵ In 1916, however, interest had been sufficiently aroused so that national platforms of all three parties, Democratic, Republican, and Progressive, carried planks supporting a federal child labor bill.

Although the earliest bills did not have the endorsement of the National Child Labor Committee, by 1914 this body favored regulation, probably because the improvement in state laws was so slow that they felt it a necessity in order to accomplish their object. Between 1906 and 1916, child labor bills were introduced in every Congress save one, and, while the majority of these were to regulate child labor by some method already supposed to be within the powers of Congress, some were resolutions for constitutional amendments. The factors which made federal legislation seem necessary were as follows: (1) only nine states had reached all the standards set up by the National Child Labor Committee ten years before, although some had achieved one or two of

⁵ Claude G. Bowers, Beveridge and the Progressive Era, pp. 250-255, 264-266, 491.

the requirements but not the other standards;⁶ (2) the inequalities existing among laws of various states made it difficult to raise standards in a state which already had a fairly good law; (3) industries in states with high standards were supposedly at a disadvantage in competition with those in low standard states because in the latter cheaper labor could be procured; (4) the 1910 census showed about 2,000,000 children under sixteen gainfully employed in the United States, and 558,000 of these were in work other than agriculture.

The proponents of federal legislation thought that under the clause in the Constitution giving Congress power to regulate interstate commerce a law might be passed to control the employment of children. They would forbid the shipping in interstate commerce of articles made by an establishment which employed children in violation of certain provisions. Although such a law might be held unconstitutional on the basis that control of "commerce" did not extend to the methods of manufacture used in the goods shipped, a previous ruling of the Supreme Court approving the consti-

⁶ These standards were: a minimum age of fourteen years for manufacturing and of sixteen years for mining (the sixteen-year minimum for mining was not included in the standards of 1904); for children fourteen to sixteen years, a maximum work day of eight hours, prohibition of night work from seven in the evening to six in the morning, and documentary evidence of age. Johnson, op. cit., p. 409. (To fourteen years does not include children fourteen, except when speaking of minimum age standards, as in census figures, etc., ten to fifteen does include those fifteen.)

tutionality of the Mann White Slave Act,⁷ made supporters of the child labor bill confident that the Supreme Court would take a liberal view if called upon to judge a child labor law.⁸ These organizations favored such a bill: National and State Child Labor Committees, National Consumers' League, American Federation of Labor, Federal Council of Churches of Christ in America, Farmers' Educational and Cooperative Union of America, American Medical Association, and the International Child Welfare League.⁹ Opposition to this bill was voiced largely by a representative of an organization called The Southern Cotton Mills, and by Mr. James A. Emery representing the board of directors of the National Association of Manufacturers. Mr. David Clark, editor of a textile publication in Charlotte, North Carolina, also testified against the bill.¹⁰

On September 1, 1916, a bill to prevent interstate commerce in the products of child labor was passed by an overwhelming majority of fifty-two to twelve in the Senate and three hundred and thirty-seven to forty-six in the House. The Congressional delegation from only two states voted

⁷ *Hoke v. United States*, 227 U.S. 308 (1912).

⁸ Johnson, *Op. Cit.*, pp. 438-440.

⁹ *Ibid.*, p. 440.

¹⁰ H. Rept. 46, 64 Cong., 1 sess., (Report of the the Committee on Labor submitted by Mr. Keating), p. 7.

unanimously against the bill, those being from North and South Carolina.¹¹ The question was not a political issue between the two parties, and members of each party favored and opposed it. Although the Democrats had a majority in each house, they could hardly claim credit for the measure as a partisan one.

The standards set up by this law were, briefly: a minimum age of fourteen years for employment in manufacturing and of sixteen years for work in a mine or quarry, an eight-hour day and six-day week for children between the ages of fourteen and sixteen years, and the prohibition of night work between 7 p.m and 6 a.m. These were substantially the same standards set up by the National Child Labor Committee in 1904,¹² which few states had reached by 1914. For the administration of the law, it was provided that the Attorney General, the Secretary of Commerce, and the Secretary of Labor should constitute a board to make rules. The Children's Bureau in the Department of Labor had charge of enforcing these rules. Penalties for violation were quite severe, consisting of a fine of from \$100 to \$1000, or imprisonment for not more than three months, or both, at the discretion of the court.¹³

¹¹ Johnson, Op. Cit., p. 441.

¹² See p. 15 n.

¹³ Sen. Rept. 195, 67 Cong., 4 sess., pp. 3-4.

The law as passed was to go into operation September 1, 1917, but even before that date an injunction was granted by the United States District Court for the Western District of North Carolina which charged the United States attorney for that district not to enforce the act because it was unconstitutional.¹⁴ And in June, 1918, the Supreme Court of the United States by a five to four vote affirmed this decision in the case of *Hammer v. Dagenhart*.¹⁵

Because of the brief time that this law was in operation, it is difficult to estimate its effectiveness in

¹⁴ H. Rept. 1694., 67 Cong., 4 sess., p. 1.

¹⁵ "*Hammer v. Dagenhart*, 247 U.S. 251....

The power to regulate interstate commerce is the power to prescribe the rule by which the commerce is to be governed; in other words, to control the means by which it is carried on.

The court has never sustained a right to exclude save in cases where the character of the particular thing excluded was such as to bring them [*sic*] peculiarly within the governmental authority of the State or Nation and render their exclusion, in effect, but a regulation of interstate transportation, necessary to prevent the accomplishment through that means of the evils inherent in them.

The manufacture of goods is not commerce, nor do the facts that they are intended for, and are afterwards shipped in, interstate commerce make their production a part of that commerce subject to the control of Congress.

The power to regulate interstate commerce was not intended as a means of enabling Congress to equalize the economic conditions in the States for the prevention of unfair competition among them, by forbidding the interstate transportation of goods made under conditions which Congress deems productive of unfairness.

It was not intended as an authority to Congress to control the States in the exercise of their police power over local trade and manufacture, always existing and expressly reserved to them by the tenth amendment.

Affirmed." Sen. Rept. 406, 68 Cong. 1 sess., p. 3.

actually reducing child labor, or improving state laws or their administration. Such value as can be deduced is summarized under the testimony in favor of federal regulation which was presented at House and Senate Committee Hearings on the child labor amendment.¹⁶

The proponents of federal legislation did not give up when the first law was declared unconstitutional. Another attempt was made to regulate child labor under the taxing power of Congress, and on February 24, 1919, a bill was passed as an amendment to the Revenue Act. "The advocates of the new bill recognized that they were using a more drastic method of regulation but hoped it would be constitutional, since the phosphorus match tax and the oleomargarine tax were precedents for using the taxing power of Congress for regulating purposes."¹⁷ This law set up the same standards as the previous one had, but instead of regulating goods as articles of commerce, it laid a ten per cent tax on all goods made by an establishment which employed children in violation of these provisions.¹⁸ This law was also passed by a large vote of members of both political parties in a Congress containing a bare majority of Democrats.

¹⁶ See pp. 51, 54, 55, 58-59

¹⁷ Johnson, Op. cit., p. 441

¹⁸ Sen. Rept. 1185., 67 Cong., 4 sess., pp. 10-12.

Because of its nature this law was administered under the Commissioner of Internal Revenue by a child labor tax division created for that purpose. No public hearings were conducted by the committees considering this bill; so a record of organizations and individuals which favored and opposed it is not available. However, considering that it followed so closely on the heels of the first law, it may be assumed that the support and opposition remained approximately the same, although their influence on Congress was more limited. That the attitude of the sixty-fifth Congress was similar to that of the sixty-fourth is apparent from the vote.¹⁹ The arguments favoring and opposing both federal laws were similar except that in the case of the second it was denounced as unconstitutional in view of the recent Supreme Court decision on the first, and as a deliberate attempt to override this decision. Favorable debate added the proposition that the first law had helped reduce child labor and had thus proved federal regulation a necessity.

But, after a somewhat longer period in operation, this law was also brought before the Supreme Court of the United States, and declared inoperative in an eight to one decision because it was not a valid exercise of the taxing

¹⁹ Senate 50 yeas to 12 nays; House 312 yeas to 11 nays. Cong. Rec., 65 Cong., 3 sess., pp. 621, 3035.

power of Congress under the Constitution.²⁰

In anticipation of the opposition to the Constitutional amendment on child labor, a timely observation is included. Mr. David Clark, editor of the Southern Textile Bulletin of Charlotte, North Carolina, admitted choosing and preparing the two cases testing the constitutionality of the interstate commerce regulation on child labor and the child labor tax law. Mr. Clark appeared to be representing the manufacturers of the southern states, a class which had consistently opposed federal regulation of child labor and which had also appeared in opposition to such state legislation.²¹

In order that one may appreciate the arguments advanced for federal regulation, a survey of child labor

²⁰ Bailey v. Drexel Furniture Co. (259 U.S. 20).

"The child labor tax law of February 24, 1919, imposing a tax of 10 per cent on the net profits of the year upon an employer who knowingly has employed, during any portion of the taxable year, a child within the age limits therein prescribed, is not a valid exercise by Congress of its powers of taxation, under United States Constitution, Article I, Section 8, but is an unconstitutional regulation by the use of the so-called tax as a penalty of the employment of child labor in the States, which, under United States Constitution, tenth amendment, is exclusively a State function."

Sen. Rept. 406, 68 Cong., 1 sess., p. 10.

²¹ Hearings before the House Judiciary Committee on Proposed Child Labor Amendments, 68 Cong., 1 sess., H. Doc. 497, 68 Cong., 2 sess., pp. 238-240. (Hereafter denoted as H. Doc. 497, 68 Cong., 2 sess.)

conditions is indispensable. Inasmuch as the census taken in 1920 is the nearest record there is for the entire country, the extent of child labor in the United States in 1923 or 1924 can only be estimated. Statistics showing the number of children ten to fifteen years of age engaged in each principal occupation group are given by states for 1920 (Table 1). Less extensive figures for 1920 and 1910 are presented for comparison (Table 2). Table 3 shows the number and per cent distribution of children gainfully employed in the United States.

These statistics indicate that 1,060,858 children ten to fifteen years of age were employed in the United States in 1920. Sixty-one per cent were in agriculture and allied pursuits, and the remainder distributed in all other occupations covered by the census. Seventeen per cent of all the children from ten to seventeen years old and eight and one-half per cent of those ten to fifteen years old were employed. The South Atlantic Division of states had the largest number gainfully occupied in all occupations, with the East and West South Central States next, and in these sections the largest percentage of children was engaged in agricultural pursuits. For most of the states included in this group, agriculture meant the cultivation

TABLE I

NUMBER OF CHILDREN ENGAGED IN EACH PRINCIPAL OCCUPATION GROUP, BY GEOGRAPHICAL DIVISION AND STATES: 1920
(H. Doc. 497, 68 Cong., 1 sess., pp. 32-33. Compiled from U. S. Census: 1920, Population, vol. V)

Children 10 to 15 years of age, inclusive, engaged in specified occupation group									
Divisions and States	Total	Agricul- tural pur- suits	Manu- factur- ing and mechani- cal indus- tries	Domestic and personal service	Clerical occu- pations	Trade	Trans- porta- tion	Ex- trac- tion of min- erals	Other occu- pa- tions
United States	1,060,858	647,309	185,337	54,006	63,368	18,912	80,140	7,191	4,595
New England	59,239	3,053	39,708	2,946	5,110	1,086	6,973	30	333
Maine	2,585	823	844	454	239	86	113	2	24
New Hampshire . .	1,526	215	852	165	166	29	87	1	11
Vermont	1,277	510	276	219	163	31	47	18	13
Massachusetts . .	33,723	831	23,753	1,226	2,749	655	4,317	7	185
Rhode Island . .	8,569	119	6,979	185	420	96	737	2	31
Connecticut . . .	11,559	555	7,004	697	1,373	189	1,672	-	69
Middle Atlantic . . .	131,541	8,922	61,293	8,511	13,817	3,737	30,924	3,427	910
New York	49,846	2,401	17,842	2,404	5,854	1,783	19,064	20	478
New Jersey . . .	26,024	998	15,630	1,226	2,185	687	5,137	15	146
Pennsylvania . .	55,671	5,523	27,821	4,881	5,778	1,267	6,723	3,392	286
East North Central .	100,801	23,425	30,152	8,583	16,593	3,052	17,260	905	831
Ohio	18,119	3,721	4,874	1,776	4,231	628	2,352	347	190
Indiana	16,911	4,844	4,744	1,638	3,045	631	1,643	226	140
Illinois	36,933	5,801	11,714	2,587	4,868	1,007	10,433	251	272
Michigan	13,154	3,588	3,305	1,315	2,771	498	1,437	74	166
Wisconsin	15,684	5,471	5,515	1,267	1,678	288	1,395	7	63
West North Central .	57,906	29,722	7,938	5,029	6,623	1,914	5,884	324	472
Minnesota	8,271	4,698	665	869	1,035	215	712	15	62
Iowa	9,121	4,184	1,099	1,052	1,538	369	714	56	109
Missouri	22,587	9,622	4,816	1,591	2,124	694	3,443	141	156
North Dakota . .	2,816	2,364	48	199	97	43	47	5	13
South Dakota . .	2,555	1,928	120	205	161	56	64	2	19
Nebraska	5,286	3,171	469	446	569	200	370	3	58
Kansas	7,270	3,755	721	667	1,099	337	534	102	55
South Atlantic . . .	273,981	214,906	26,304	12,380	7,150	3,383	8,318	817	723
Delaware	11,406	393	405	168	125	58	249	-	8
Maryland	12,300	3,168	3,794	1,521	1,241	383	2,096	27	70
District of Col. .	1,871	5	198	413	416	127	680	-	32
Virginia	25,493	15,501	3,596	2,885	1,367	654	1,157	188	145
West Virginia . .	7,431	4,112	1,096	746	460	269	230	472	46
North Carolina .	62,162	50,582	7,697	1,637	808	528	790	30	90
South Carolina .	63,520	56,920	3,829	1,308	562	338	475	11	77
Georgia	88,934	77,105	4,384	2,855	1,534	764	2,058	53	181
Florida	10,864	7,120	1,305	847	637	262	583	36	74
East South Central .	221,342	196,620	8,503	6,821	3,577	1,780	2,672	1,045	324
Kentucky	26,754	21,036	1,657	1,336	905	390	828	493	109
Tennessee	39,837	32,326	2,854	1,929	1,116	527	764	243	75
Alabama	84,397	77,395	2,422	2,089	983	467	666	299	76
Mississippi . . .	70,554	65,863	1,570	1,467	573	396	411	10	64
West South Central .	184,267	158,187	6,817	6,772	4,559	2,537	4,433	467	495
Arkansas	48,140	45,686	857	647	364	258	254	26	48
Louisiana	32,274	23,718	2,502	2,502	1,196	514	1,703	52	88
Oklahoma	22,981	19,752	694	722	774	387	366	203	83
Texas	80,872	69,031	2,764	2,902	2,225	1,378	2,110	186	276
Mountain	15,612	8,950	1,512	1,358	1,619	657	1,201	151	164
Montana	1,402	678	91	169	231	68	131	15	19
Idaho	1,608	1,092	106	123	133	66	64	4	20
Wyoming	608	307	58	57	67	52	40	23	4
Colorado	4,558	1,955	589	445	649	206	612	51	51
New Mexico . . .	2,195	1,418	241	243	93	91	55	33	21
Arizona	2,711	1,981	205	150	176	93	76	13	17
Utah	2,361	1,477	206	140	240	63	201	7	27
Nevada	169	42	16	31	30	18	22	5	5
Pacific	16,169	3,524	3,110	1,606	4,320	766	2,457	25	343
Washington . . .	4,650	1,024	1,044	463	1,225	264	540	6	84
Oregon	2,462	668	341	249	785	77	308	1	33
California	9,057	1,832	1,725	894	2,310	425	1,627	18	226

TABLE 2

NUMBER AND PER CENT DISTRIBUTION, BY GENERAL DIVISIONS OF OCCUPATIONS, OF GAINFULLY OCCUPIED CHILDREN TEN TO FIFTEEN YEARS OF AGE, FOR THE UNITED STATES: 1920 and 1910
(U. S. Census: 1920, Population, vol. IV, p. 477)

General division of occupations	1920		1910	
	10 to 15 years		10 to 15 years	
	Number	per cent	Number	per cent
All occupations	1,060,858	100.0	1,990,225	100.0
Agriculture, forestry, and animal husbandry . .	647,309	61.0	1,432,428	72.0
Extraction of minerals	7,191	0.7	18,090	0.9
Manufacturing and mechanical industries	185,337	17.5	260,932	13.1
Transportation	18,912	1.8	20,800	1.0
Trade	63,368	6.0	70,700	3.6
Public service (not elsewhere classified) . . .	1,130	0.1	537	(1)
Professional service	3,465	0.3	3,566	0.2
Domestic and personal service	54,006	5.1	112,171	5.6
Clerical occupations	80,140	7.6	71,001	3.6

(1) Less than one-tenth of one per cent.

TABLE 3

NUMBER AND PER CENT DISTRIBUTION, BY GENERAL DIVISIONS OF OCCUPATIONS, OF GAINFULLY
OCCUPIED CHILDREN TEN TO SEVENTEEN YEARS OF AGE, FOR THE UNITED STATES: 1920
(U. S. Census: 1920, Population, vol. IV, p. 476)

General division of occupation	Children engaged in gainful occupations: 1920									
	10 to 17 years		10 to 13 years		14 years		15 years		16 years	
	Number	per cent	Number	per cent	Number	per cent	Number	per cent	Number	per cent
All occupations . . .	2,773,506	100.0	378,063	100.0	257,594	100.0	425,201	100.0	778,957	100.0
Agriculture, forestry and animal husbandry . .	1,125,220	40.6	328,958	87.0	150,977	58.6	167,374	39.4	230,291	29.6
Extraction of minerals . .	50,401	1.8	647	0.2	1,499	0.6	5,045	1.3	19,772	2.5
Manufacturing and mechanical industries . .	772,850	27.9	9,473	2.5	50,512	19.6	125,352	29.5	270,603	34.7
Transportation	107,297	3.9	1,899	0.5	4,362	1.7	12,651	3.0	34,720	4.5
Trade	198,030	7.2	17,213	4.6	14,844	5.8	31,311	7.4	60,756	7.8
Public service (not elsewhere classified) . .	12,057	0.4	153	(1)	208	0.1	769	0.2	2,465	0.3
Professional service . . .	20,654	0.7	621	0.2	802	0.3	2,042	0.5	5,114	0.7
Domestic and personal service	166,542	6.0	12,172	3.2	14,481	5.6	27,353	6.4	50,998	6.5
Clerical occupations . . .	320,421	11.6	6,927	1.8	19,909	7.7	53,304	12.5	104,234	13.4

(1) Less than one-tenth of one per cent.

TABLE 4

NUMBER OF CHILDREN FOURTEEN AND FIFTEEN YEARS OF AGE RECEIVING REGULAR
EMPLOYMENT CERTIFICATES FOR THE FIRST TIME, 1921, 1922, AND 1923, BY
STATE AND CITY

(H. Rep. 497, 68 Cong., 2 sess., p. 39)

State and city	1921	1922	1923
Alabama			
Birmingham	166	139	240
Huntsville	252	189	208
Mobile	166	78	128
Montgomery	79	90	93
California			
San Francisco.	310	295	381
Connecticut			
Bridgeport	571	806	1,032
New Haven.	572	856	1,235
Waterbury.	111	308	736
Delaware			
Wilmington	171	423	(2)
District of Columbia.	959	693	(2)
Indiana			
Indianapolis	672	607	727
Kentucky			
Louisville	186	351	795
Louisiana			
New Orleans. (3)	2,091	(3) 2,031	2,445
Maryland			
Baltimore.	2,503	3,199	(2)
Massachusetts			
Boston	2,473	2,375	2,816
Fall River	904	1,574	1,170
Lowell	297	712	(2)
New Bedford.	841	(4) 1,322	2,111
Somerville (5)	362	313	366
Springfield.	194	581	698
Worcester.	349	904	(2)
Michigan			
Detroit.	264	288	277
Minnesota			
Minneapolis.	407	339	301
St. Paul	217	216	207
Missouri			
St. Louis.	3,865	4,468	(2)
New Hampshire			
Manchester	251	159	346
New Jersey			
Jersey City.	1,136	1,570	1,977
Newark	1,633	2,404	2,509
Trenton.	508	791	974
New York			
New York City.	38,888	32,492	(2)
Yonkers.	418	401	914
Pennsylvania			
Philadelphia	6,618	9,124	10,937
Pittsburgh	1,227	1,659	2,778
Rhode Island			
Providence	51,567	52,083	2,463
Wisconsin			
Milwaukee	2,359	2,556	3,780

1 Compiled, except where otherwise noted, from figures furnished by certifying officers, school officials, etc. in correspondence with the United States Children's Bureau.

2 Figures not available.

3 Reports of the factories inspection dept. of the Parish of Orleans.

4 Annual report of the school committee of the city of New Bedford.

5 Annual reports of the school committee of the city of Somerville.

TABLE 5

COMPARISON OF NUMBER OF EMPLOYMENT CERTIFICATES ISSUED WITH NUMBER OF CHILDREN EMPLOYED, STATES AND CITIES
(Employment certificate figures from White House Conference Report, *Child Labor*, pp. 60-61;
employment figures compiled from U. S. Census: 1920, vols. IV, V.)

States and cities	Children 14 and 15 receiving employment certificates for the first time, in specified states and cities										Children 14 and 15 employed in specified states and cities	
	1920	1921	1922	1923	1924	1925	1926	1927	1928	1929	1920	1930
United States											682,795	431,790
Alabama											36,801	31,837
Birmingham	233	166	139	240	149	179	240	185	122	-	829	585
Mobile	112	166	78	128	-	60	89	79	55	-	343	186
Montgomery	211	79	90	93	-	-	-	36	49	-	243	179
California											6,887	3,931
San Francisco . . .	486	310	295	381	243	267	163	156	134	145	1,068	223
Connecticut											10,911	5,402
Bridgeport	1,918	871	806	1032	605	785	878	581	635	915	1,063	531
New Haven	1460	572	856	1235	810	927	1057	982	962	884	1,487	754
Waterbury	528	111	308	703	540	634	571	476	363	374	636	211
Delaware											1,167	455
Wilmington	484	171	423	430	-	-	252	286	285	320	743	143
District of Columbia	929	959	693	474	412	134	220	186	252	279	1,612	447
Kentucky											16,930	11,857
Louisville	368	186	351	795	640	547	638	507	390	482	1,276	621
Louisiana											19,188	15,923
New Orleans	2748	2091	2031	2469	2288	2506	2563	1743	1195	1100	3,799	1,706
Maryland											10,532	5,928
Baltimore	4373	2503	3199	4145	3526	3948	4229	3567	2961	3553	6,060	3,112
Massachusetts											32,292	9,184
Boston	6118	2473	2375	2810	-	-	-	-	2382	2847	4,308	1,129
Chelsea	316	245	-	-	-	-	-	-	-	-	332	108
New Bedford	838	841	1322	1439	1085	1452	-	-	-	-	2,082	600
Somerville	1289	362	313	366	-	-	-	275	262	299	479	128
Springfield	630	194	581	639	-	-	-	391	398	427	855	249
Minnesota											6,504	4,515
Minneapolis	873	407	339	301	165	196	171	123	112	93	797	361
St. Paul	480	217	218	207	185	180	160	144	131	112	639	250
Missouri											18,264	11,398
St. Louis	6060	3865	4468	4978	3366	3528	3407	2048	1773	1730	6,753	2,433
New Hampshire											1,332	583
Manchester	359	251	159	364	-	-	-	244	240	411	318	139
New Jersey											24,796	9,992
Jersey City	3012	1136	1570	1944	1574	1599	1638	1560	1340	1371	2,674	631
Newark	2915	1633	2404	2509	2193	2237	2494	2345	2306	2264	3,416	1,019
Passaic	771	621	-	-	-	595	549	-	-	-	714	233
Trenton	986	508	791	974	784	920	906	667	786	824	1,363	508
New York											47,024	19,016
Buffalo	3914	-	-	-	-	-	-	2599	2414	2783	2,338	669
New York City . . .	50740	38888	32492	36518	32163	32814	35484	35717	34313	35934	31,399	11,689
Rochester	2664	-	-	-	1580	1833	1841	1604	1588	1476	1,423	368
Yonkers	521	418	401	814	284	384	525	490	429	413	355	124
Ohio											14,498	5,010
Cincinnati	3051	-	-	-	-	-	-	14	7	3	1,044	218
Toledo	923	-	-	-	-	-	-	15	21	23	749	148
Pennsylvania											50,825	22,253
Philadelphia	9808	6618	9124	10937	8289	10349	11194	9932	9715	10455	10,374	4,711
Pittsburgh	2408	1227	1659	2778	1864	2028	1677	1381	980	1429	2,298	673
Rhode Island											8,383	2,229
Providence	2683	1567	2083	2463	-	-	1633	1563	1704	1943	2,752	875
Wisconsin											13,982	5,923
Milwaukee	5283	2359	2556	3780	1926	2481	2007	1736	1282	861	4,114	375

of cotton or tobacco.²² Of the children employed in the New England, Middle Atlantic, and East North Central States, manufacturing and mechanical industries engaged the largest percentage. The specific states which contained the largest numbers of employed children from ten to fifteen years of age were (in order of numbers employed):

Georgia
Alabama
Texas
Mississippi
South Carolina
North Carolina
Pennsylvania
New York
Arkansas
Tennessee

States which showed the highest percentage of their population from ten to fifteen years of age gainfully occupied

²² "Children work on farms wherever crops are raised, but 12 States -- Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, and Texas -- have more than the average quota of child agricultural workers. The children at work on farms in these 12 States are 84 per cent of the total number of all children reported by the United States Census [for 1920] as employed in agriculture. These are among the States that lead in the production of cotton and tobacco; they have 74 per cent of the tobacco acreage and 99 per cent of the cotton acreage of the country." U. S. Dept. of Labor, Children's Bureau, Children in Agriculture, Bureau Publication, 187, p. 1.

were as follows:²³

	<u>Per cent</u>
Mississippi.....	25.4
South Carolina.....	24.4
Alabama.....	24.1
Georgia.....	20.7
Arkansas.....	18.5
North Carolina.....	16.6
Rhode Island.....	13.4
Louisiana.....	12.5
Texas.....	12.5
Tennessee.....	12.2

To evaluate the accuracy of the census reports or to compare the 1920 with the 1910 figures, it is necessary to consider factors involved in taking the census. The census report for 1920 contains the following explanation:

The statistics presented in this chapter ["Children in Gainful Occupations"] show that from 1910 to 1920 there was a striking and general decrease in the proportion of children engaged in gainful occupations. Statistics not here included show that during this period there was also somewhat of a decrease in the proportion of adults gainfully occupied. To the extent that this decrease relates to children it is believed to have resulted primarily from the change of the census date, from a difference in the basis of enumeration, and from increased legal restrictions against child labor.

The change of the census date from a very busy farming season in 1910 (April 15) to a very dull farming season in 1920 (January 1) undoubtedly resulted in a smaller number of children being returned by the census enumerators in 1920 as engaged in agricultural pursuits than would have been returned had the census been taken as of April 15, as it was in 1910. It is believed that when the enumeration was made in 1920 (as of January 1) many children usually employed as farm laborers were not then at work and were not returned by the census enumerators as gainfully occupied.

²³ Compiled from U.S. Census: 1920, Population, Vol. IV, p. 514.

The enumerator's show that a considerable proportion of the children living on farms -- especially on the home farm -- were returned neither as attending school nor as gainfully occupied.

To a considerable extent, the great decrease from 1910 to 1920 in the number of children engaged in gainful occupations -- especially in the number engaged in agricultural pursuits -- is believed to be apparent only and due to an overenumeration in 1910.²⁴

It should be added that although the census did not include children under ten years of age, various other studies have shown that this number was quite large in some occupations. Proponents of federal child labor regulation constantly emphasize these reasons as explanation of the decrease in child labor between 1910 and 1920. The opinion is also held, however, that the number of children working fell largely because of improvement in state regulations, and that the above-mentioned causes were not alone in importance.

If allowance could be made for these different conditions [i.e. different time of year the census was taken, and a federal law in operation discouraging employment], probably the greater part of the decrease would still be unaccounted for, and that part must be attributed to changing industrial conditions and standards, to public opinion, and to increased state regulation in connection with school attendance, the conditions of work, and the age of starting work, of young persons.²⁵

²⁴ U. S. Census: 1920, Population, vol. IV, p. 475.

²⁵ National Industrial Conference Board, Inc., The Employment of Young Persons in the U. S., p. 23.

It must therefore be concluded that, although the census figures for 1920 may not be exactly accurate, there was a decrease in the number of children gainfully employed from the number indicated in the census of 1910. It is probable that the greatest discrepancy between the figures given and the children actually employed was in the agricultural occupations group.

There are no figures for the entire United States more recent than those of the decennial census to show the number of children employed in 1923 or 1924. Miss Grace Abbott who was head of the Children's Bureau and in touch at that time with the officers administering state child labor laws asserts:

The Children's Bureau found, after the first federal child labor law was declared unconstitutional, that, in a great many localities prompt advantage was taken of the fact to increase the number of employed children.²⁶

and again:

We also have some figures as to the increase of employment with reference to the period after the second Federal child labor law was declared unconstitutional, especially with reference to employment in Georgia, where the standards of the State child-labor law are very much lower than the standards that the Federal child-labor law carried, and there was a very prompt and immediate increase in the numbers.²⁷

Miss Abbott also stated that industrial depression

²⁶ H. Doc. 497, 68 Cong., 2 sess., pp. 37-38.

²⁷ Loc. cit.

after 1920 brought a decrease in the number of children employed, but that 1922 showed an increase. She based her conclusion on the fact that more work permits²⁸ were issued.²⁹ Table 4 shows the number of children fourteen and fifteen years of age who received work permits for the first time in certain cities in the United States during the three years following 1920.

Such figures are also available for each year up to 1929 and are included as a basis for comparison with census figures for 1920 and 1930 (Table 5). On the value of these data as an indication of the actual number of children employed at a given time, the opinion of one group of investigators is quoted (speaking of figures on work permits found in Table 4):

In using these figures, allowance must be made for the following factors: (a) only industrial centers are included; (b) the total number of children of the ages covered in the places included is not known, so that the increase in child population is ignored; (c) the increased number of certificates issued may mean only

28 "Work Permits" were certificates issued by state and local officers in charge of enforcing child labor or child welfare laws. Most states required them for legal employment of a child under sixteen in specified occupations. The permit indicated that the child was a certain age and had completed the educational requirements necessary. Provisions varied from state to state depending on laws and rules for enforcing them.

29 H. Doc. 497, 68 Cong., 2 sess., p. 39.

that methods of certification have improved: (d) certificates show the number of children intending to go to work, rather than those at work.

This evidence regarding conditions in large industrial centers is not supported, moreover, by the conclusions and data presented in annual reports of state labor departments and bureaus. A survey of these shows that decreases in the number of employment certificates issued were noted in twelve states -- Colorado, Connecticut, Iowa, Kansas, Louisiana, Maryland, Minnesota, Nebraska, Oregon, Virginia, West Virginia and Wisconsin -- in recent periods. In some cases decreases were noted since the nullification of the federal laws. Only four states reported increases -- Arkansas, California, New York, and South Carolina, and in one of these the increase took place during the period of operation of the last federal law. No information is given in the reports of the remaining thirty-three states.³⁰

Of course, this statement may in turn be criticized, because, if an increase in employment certificates should not be interpreted as indicative of a corresponding increase in child labor, certainly a decrease in certificates should not be construed to mean that a smaller number were employed. Or the fact that thirty-three state labor departments reported no figures on the subject really detaches much significance from the reports of the sixteen that did.

M. S. Johnson, however, in her study of child labor legislation, considers employment certificates a valid indication of an increase in child labor.³¹ In spite of all the qualifications on any interpretation of these tables, their inclusion is justified if only on the single basis

³⁰ Nat'l Industrial Conference Board, Inc., Employment of Young People in the U. S., p. 31.

³¹ Johnson, op. cit., p. 443.

that they represent the only statistics available for the whole country between those of the decennial census.

In summing up child labor conditions in 1923 and 1924 one can only say that the 1920 census showed 1,060,852 children between ten and sixteen (i.e. exclusive of those sixteen years old) engaged in gainful occupation, which was 8.5 per cent of the total population of that age. Of this number 35.2 per cent were between ten and fourteen years old, 24.3 per cent were fourteen, and 40.5 per cent were fifteen. The occupations employing most children were: first, agriculture and allied lines; second, manufacturing and mechanical industries. In geographical distribution of all child workers, the proportion was larger in the South than in any other section, but exclusive of agriculture the New England, Middle Atlantic and East North Central States all had larger proportions of children working than any of the southern geographic divisions.

The larger proportion of children working in the southern states and the lower standards maintained by their child labor laws were connected with the general economic level of the South Atlantic and the South Central States. A study of wages in the United States discloses that hours of work were longer and wage levels, on the whole, lower in these two divisions than in any other division of states. The difference is particularly marked in the cotton textile

industry and in farm labor.³²

Because of the many variations in child labor laws, it is impossible to show accurately as well as concisely the extent of regulation in each state. Legal restriction can best be illustrated by a comparison of provisions in state laws with the standards set up in the federal laws.

³² U. S. Dept. of Labor, Bur. of Labor Statistics, History of Wages in the United States from Colonial Times to 1928, Bulletin 499. (October 1929). pt. 2, pp. 145-472. Statistics on wages for the whole country are meagre and many of the figures used in this work represent only specific cities. Some of the samples which are available show a significant difference in wage levels. For one particular class of workers in cotton goods (drawing frametenders, male), in 1924, average wages and hours were as follows: (from Table L-7, p. 372, of above)

State	Hours per week	Rate per hour
Alabama.....	55.1	\$0.211
Connecticut.....	53.6 .....	.350
Georgia.....	56.6 .....	.214
Maine.....	55.7 .....	.350
Massachusetts.....	51.3 .....	.415
New Hampshire.....	54.4 .....	.400
New York.....	54.2 .....	.378
North Carolina.....	55.4 .....	.504
Pennsylvania.....	50.7 .....	.325
Rhode Island.....	54.2 .....	.418
South Carolina.....	55.0 .....	.260
Virginia.....	55.1 .....	.350

For farm labor the average monthly wage (without board) was \$66.88 in North Atlantic States, \$55.10 in the North Central, and \$56.84, and \$37.25 in the South Atlantic and South Central Divisions respectively. In Western States it was \$75.19. (From Table D-3, p. 229, of above.)

Briefly these standards were: (1) prohibition (in effect) of employment of children under fourteen in any mill, factory, workshop, cannery or manufacturing establishment; (2) an eight-hour day, forty-eight-hour and six-day week for children fourteen and fifteen; (3) prohibition of night work between 7 p.m. and 6 a.m. for children fourteen and fifteen; (4) prohibition of employment of children under sixteen in any mine or quarry.³³

At the time of the hearing conducted by the Judiciary Committee of the House of Representatives (February and March, 1924), only thirteen states had laws which measured up in all particulars to the standards set by the two federal laws that were declared unconstitutional.³⁴ In regard to the minimum age of fourteen for factories and canneries, twenty-eight states³⁵ measured up to this standard, while fifteen other states set this standard but allowed certain exemptions. Laws of twenty-seven states came up to or bettered the provisions for eight-hour day and forty-eight-hour week, and three others had that standard but made

³³ Sen. Rept. 1185, 67 Cong., 4 sess., pp. 3-4.

³⁴ Alabama, Connecticut, Illinois, Indiana, Kansas, Kentucky, New York, Ohio, Oklahoma, Oregon, Tennessee, West Virginia, and Wisconsin. H. Doc. 497, 68 Cong., 2 sess., p. 20, testimony of Grace Abbott.

³⁵ The fifteen states other than those in n. 34: Florida, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Montana, Nebraska, New Hampshire, New Jersey, North Dakota, Pennsylvania, Rhode Island, South Carolina.

some exemptions. The laws of eighteen states were below that standard. For prohibition of night work, twenty-six states had requirements which equaled the federal law standard, eleven set that standard but allowed exemptions, while eleven fell below. In regard to mines and quarries, twenty-five states had at least a minimum age of sixteen and some set a higher age; seven states set that standard but allowed some exemptions, while sixteen had a lower standard. The twenty-five states reaching the federal law requirements included the most important mining states, although some of the sixteen with a lower standard had some mining operations. Laws of five states³⁶ set standards equal to those of the federal laws except for the sixteen-year minimum for work in mines. Concerning provisions not touched on by the federal laws the following is noted: twenty-two states required a physical examination for a working certificate; thirteen states (although seven permitted exemptions) set completion of the eighth grade as a requirement for work permits.³⁷

In order to gain a clearer conception of what these laws accomplished one should review the darker side of the situation.³⁸ As stated in 1924: "Nine States have no law

³⁶ Massachusetts, Minnesota, Montana, New Jersey, and North Dakota.

³⁷ H. Doc. 497, 68 Cong., 2 sess., pp. 19-20.

³⁸ Summary from H. Doc. 497, 68 Cong., 2 sess., pp. 284-285.

prohibiting all children under fourteen from working in both factories and stores."³⁹

"Twenty-three States with a fourteen-year minimum age limit have weakened their laws by permitting exemptions under which children not yet fourteen may work. . . . with the qualification that the fourteen-year age minimum is understood to include at least factories and workshops."⁴⁰

"Thirty-seven [corrected to thirty-five] States allow children to go to work without a common school education."⁴¹

"Eighteen [corrected to nineteen] States do not make physical fitness for work a condition of employment."⁴²

"Fourteen [corrected to eleven] States allow children under sixteen to work from nine to eleven hours a

³⁹ Florida, Georgia, Mississippi, Montana, Oklahoma, South Carolina, Utah, Vermont and Wyoming.

⁴⁰ Alabama, Arizona, Arkansas, Colorado, Delaware, Florida, Georgia, Idaho, Iowa, Kansas, Minnesota, Missouri, Nevada, New Mexico, North Carolina, Oklahoma, Oregon, South Carolina, South Dakota, Vermont, Washington, West Virginia, and Wisconsin.

⁴¹ Alabama, Arizona, Arkansas, California, Colorado, Connecticut, Florida, Georgia, Idaho, Illinois, Iowa, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Mississippi, Missouri, Nevada, New Hampshire, New Jersey, New Mexico, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Virginia, West Virginia, and Wyoming.

⁴² Arkansas, Colorado, Georgia, Idaho, Kansas, Louisiana, Mississippi, Montana, Nevada, New Mexico, North Dakota, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Washington, and Wyoming.

day."⁴³

"One State does not regulate in any way daily hours of labor of children." [Georgia; only limitation is sixty-hour week in cotton and woolen mills for all employees, with certain exceptions]. Aside from states having very little child labor, such as the Pacific and the Mountain States, those with the lowest standards in their child labor laws are the same states which have a large percentage of their child population working.⁴⁴ South Carolina is named among the states failing to reach every standard mentioned: Arkansas, Georgia, Louisiana, North Carolina, and Texas are all listed among those which fail to incorporate three or more of the provisions. These remarks take on added significance as the reader appreciates that states which set generally low standards in their child labor laws and which had the largest percentage of their child population employed, were also the states that refused to ratify the proposed child labor amendment.⁴⁵

This summary of standards in legislation throughout

⁴³ Florida, Idaho, Louisiana, Michigan, New Hampshire, North Carolina (had eight-hour day for children under fourteen) Pennsylvania, Rhode Island, South Carolina, South Dakota, and Texas.

⁴⁴ Cf. p. 24.

⁴⁵ Cf. Fig. 3.

the states is a necessary basis for consideration of the need for a constitutional amendment to give Congress power to regulate child labor. However, it must be remembered that state laws do not represent an accurate picture of conditions in the states, because there are so many elements other than the letter of the law which affect the actual employment of children. The extent of manufacturing, mining, large scale agricultural industries in a state influence conditions of child labor. Public opinion upon the subject is also important. And both of these factors influence the administration of whatever laws the state has. Lax opinion on the part of the people of a state, as a whole, may mean that even a fairly good law will not be effectively enforced. Or a powerful industry within a state may be able to prevent the state legislature from enacting, or setting up machinery to enforce, a law which would interfere with their initiative in employment. On the other hand, the force of popular opinion held in a state can operate to bring about a very strict interpretation of the law, or even tend to influence employers against hiring children where the law is not very rigid. It will generally be found, however, that where there is a forceful public sentiment opposed to child labor, the legal restrictions will correspond to it.

In 1922 the school of thought which had previously advocated federal regulation of child labor was still of

the opinion that the states were not caring for the problem, or could not care for it, adequately. During the years before the federal laws were passed frequent proposals had been made for amending the Constitution to provide expressly for Congressional statutes on child labor. There was little support for such proposals, however, because proponents believed that effective regulation could be achieved under existing provisions of the Constitution. Because of the long process involved in amending the Constitution, statutory provisions were also judged more expedient. Two defeats were necessary to convince the agitators that the Supreme Court of the United States did not consider regulation of child labor a valid office of Congress under taxing or commerce clauses, no matter what it decided on the Mann White Slave Act, the oleomargarine, the phosphorus match, or the lottery case.

With the death of the child labor tax law it became evident that the only legal way left for Congress to regulate child labor was to pass an amendment to the Constitution which would definitely confer that power on our national legislative body. That some of the advocates of child labor prevention were glad of this opportunity is evidenced by the statement of Raymond G. Fuller, once Director of Research and Publicity on the National Child Labor Committee. He

says:

One of the good results of the court decision on the child labor tax law is the re-opening of the whole subject of child-labor legislation -- and of child labor reform, which goes beyond mere legislation. There is renewed discussion of child labor as a national evil and of its control as a federal problem. We shall gain much if we recall that in the two attempts of Congress to curb this evil, the method of indirection was used. No direct regulation was possible under the Constitution. That was known. It is now known that indirect regulation is impossible. What is not sufficiently recognized is that neither of the Federal enactments was adequate within even the narrow occupational field which it covered. . . . The American public now faces the question: If federal legislation is desirable, should it not be direct in method, dealing with child labor as child labor and not as something subordinate to interstate commerce or federal taxes? . . . How inadequate our federal legislation has been, from the standpoint of standards, is apparent by comparing it with the standards for State child-labor legislation adopted by the Conferences on Minimum Standards for Child Welfare . . . 46

46 Raymond G. Fuller, Child Labor and the Constitution, pp. 244-245.

CHAPTER II

THE AMENDMENT IN COMMITTEE

A large body of public opinion demanding that something be done about the child labor situation after the federal laws had been rendered inactive made it imperative for Congress to study the problem. Also the Secretary of Labor in his annual report had stressed the need for a uniform minimum standard for child labor regulation, and had virtually recommended a constitutional amendment which would give Congress authority to undertake direct legislation in regard to the matter.¹ Advocates of federal control promptly introduced numerous resolutions for constitutional amendments and some of the state legislatures petitioned Congress for the submission of a child labor amendment. By February 23, 1923, the House of Representatives had referred fifteen resolutions for such an amendment to its Judiciary Committee² and the Senate Committee on the Judiciary had studied five such proposals. These varied in form according to the method of regulation anticipated, and to the extent of power to be granted to Congress. One resolution intro-

¹ James J. Davis, Tenth Annual Report of the Secretary of Labor for the fiscal year ending June 30, 1922, pp. 113, 114.

² H. Rept. 1694, 68 Cong., 1 sess., p. 1.

duced by Senator Johnson of California proposed an amendment to Article X of the Constitution so that it would read:

(1) The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States, respectively, or to the people: Provided however, That the Congress shall have power to regulate or prohibit throughout the United States the employment of children under eighteen years of age.

Three others were straight amendments to the Constitution:

(2) [introduced by Senator Townsend of Michigan] The Congress shall have power to regulate the employment and the hours of labor and conditions of employment of persons under eighteen years of age.

(3) [introduced by Senator McCormick of Illinois] The Congress shall have power to limit or prohibit the labor of persons under eighteen years of age, and power is also reserved to the several States to limit or prohibit such labor in any way which does not lessen any limitation of such labor or the extent of any prohibition thereof by Congress. The power vested in the Congress by this article shall be additional to and not a limitation on the powers elsewhere vested in the Congress by the Constitution with respect to such labor.

(4) [introduced by Senator Lodge of Massachusetts] The Congress shall have power to prohibit or to regulate the hours of labor in mines, quarries, mills, canneries, workshops, factories, or manufacturing establishments of persons under eighteen years of age and of women.

The fifth resolution (introduced by Senator Walsh of Montana) proposed to modify the interstate commerce clause so that it might be validly interpreted to include power to regulate child labor:

(5) The power of the Congress to regulate commerce among the several States shall be held to embrace the power

to prohibit the transportation in interstate commerce of commodities being the products of any employer of child labor.³

These resolutions and corresponding ones in the House were introduced at different times throughout the sixty-seventh Congress and were referred to the Committee on the Judiciary in each house respectively. If they had been bills for statutes on child labor they would have been sent to the Committee on Labor in the House of Representatives and to the Committee on Education and Labor in the Senate. Their nature as proposed constitutional amendments determined that they should be studied in Judiciary Committee.

In the Senate a subcommittee of three members was appointed to study the problem of whether an amendment should be recommended, and if so, what form it should take.⁴ This subcommittee held public hearings in January, 1923, and after conference reported favorably to the whole Judiciary Committee. This body then recommended in its report on

³ S. J. Res. 200, 224, 232, 256 and 262. Sen. Rept. 1185, pp. 1-2.

⁴ Use of subcommittees to study specific problems is a common procedure in the Senate where committee assignments are so heavy that all the members of one committee could not devote time to each bill being considered by that particular committee. It is no indication that the measure was not judged important. Joseph P. Chamberlain, Legislative Processes, National and State, p. 85.

February 24, 1923, that an amendment be passed by Congress and submitted to the states for ratification.⁵ The form of this amendment differed from any of those previously introduced in the Senate, but had been apparently been agreed upon by leaders of the movement in the House and Senate and the committees in charge; the same resolution was favorably reported by the House Committee on the Judiciary. The proposed amendment read as follows: "The Congress shall have power, concurrent with that of the several States, to limit or prohibit [House Resolution read "limit and to prohibit"] the labor of persons under eighteen years of age."⁶

The Judiciary Committee in the House did not conduct hearings, but had the benefit of the Senate Committee's report in judging the sentiment of the public concerning the measure, and decided in favor of the same amendment. The resolutions were placed upon the calendar in each house, but were not debated or voted on in the limited time remaining in the last session of the sixty-seventh Congress.⁷ Although some proponents of a child labor amendment were

⁵ Submitted when reports of committees were the regular order of business in the Senate. Cong. Rec., 67 Cong., 4 sess., p. 4459.

⁶ Loc. cit.

⁷ Resolutions reported by the committees Feb. 23 and 24; session ended March 4. Ibid., pp. 4445, 4459, 5715.

eager to have a vote in this Congress, there is little evidence in the proceedings that Senators or Representatives urged immediate consideration of the reports. Senator McCormick, on February 14, 1923, submitted a resolution to the effect that the Committee in the upper chamber be discharged from further consideration of the proposed child labor amendment which he had introduced earlier.⁸ However, the resolution was not called up again after the necessary seven days,⁹ and consequently not invoked. This same Senator also gave a brief speech (in support of the resolution reported out of committee) on March 3, last day of the session, but his remarks had little significance at that time as he did not urge discussion or a vote.¹⁰ These were the only occurrences on the floor of Congress which might be construed as attempts to bring the matter to a vote, and neither was effective.

It may be conjectured that proponents outside of Congress brought pressure to bear upon members, and especially upon the committees, in an effort to expedite consideration of a child labor amendment, but without success. It is likewise probable that lobbyists for groups opposed

⁸ Ibid., p. 3605.

⁹ Chamberlain, op. cit., p. 132.

¹⁰ Cong. Rec., 67 Cong., 4 sess., p. 5344.

to the amendment caused delay, just as they had been successful in holding up action on the previous federal laws.¹¹ Because the last law had been invalidated less than a year before while the same Congress was in session, and because each Congress is expected to do an enormous amount of work, it is not surprising that the child labor amendment was left to the next legislature.

Public opinion behind the movement for an amendment was strong enough to bring renewed consideration in the first session of the succeeding Congress. During this session twenty-three House Joint Resolutions for child labor amendments were referred to the Committee on the Judiciary of the House of Representatives. These appeared in twenty-one different forms, varying in the age limit set to Congress' power of regulation (from sixteen to twenty-one years), in the method employed for granting power to the legislative body, and in the wording of the amendment. Some of these proposals were identical with those introduced in the previous Congress, but new forms also appeared. The Senate saw one Concurrent Resolution and four Senate Joint Resolutions for amendments referred to its Judiciary Committee.¹²

The House Committee held public hearings on proposed

¹¹ H. Doc. 497, 68 Cong., 2 sess., pp. 238-241.

¹² For text of proposed amendments see H. Doc. 497, 68 Cong., 2 sess., pp. 305-311.

amendments in February and March, 1924. Work which committees in the sixty-seventh Congress had done on investigation of child labor as a matter for federal regulation was not wasted because of failure to bring definitive action in that Congress. The large carry-over in members of standing committees from one legislature to the next is especially great when the same political party retains a majority in both houses, as the Republicans did from the sixty-seventh to the sixty-eighth Congress.¹³ This custom permits more efficient committee work and enables one Congress to profit by investigations or studies made by committees in the previous legislature.¹⁴ Probably because it had conducted hearings in the previous session, the Senate Judiciary did not again give audience to interested parties. No doubt they relied on the report of the House Committee for any new information in regard to the child labor question. At any rate, the two Committees reported out a resolution for an amendment which differed in wording from that recommended

¹³ The Senate Judiciary Committee in the sixty-eighth Congress, first session, January 1924, had, out of sixteen members, thirteen who had belonged to the same committee in the fourth session of the preceding Congress, January, 1923. The House Judiciary Committee on the same date in the sixty-eighth Congress, first session, had, from twenty-one members, fourteen who had served in the previous session. Congressional Directory, 67 Cong., 4 sess., January 1923, pp. 184, 202; 68 Cong., 1 sess., January 1924, pp. 178, 195.

¹⁴ For a discussion of Congressional committees see Chamberlain, op. cit., pp. 52-56, 63-85.

the previous year.¹⁵ Instead of employing the phrase, "power, concurrent with that of the several States," the rights of the states were specifically assured in a new section of the amendment. Also the power "to limit or prohibit" was enlarged to read, "to limit, regulate and prohibit." The resolution recommended for favorable action in both chambers was worded as follows:

Resolved by the Senate and the House of Representatives of the United States of America in Congress assembled (two thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which, when ratified by the legislatures of three fourths of the several States, shall be valid to all intents and purposes as a part of the Constitution:

"Article --

"Section 1. That Congress shall have power to limit, regulate, and prohibit the labor of persons under eighteen years of age.

"Section 2. The power of the several States is unimpaired by this article except that the operation of State laws shall be suspended to the extent necessary to give effect to legislation enacted by the Congress."¹⁶

This resolution was reported in the House of Representatives on March twenty-eighth¹⁷ by Mr. Foster from the Judiciary Committee with a favorable recommendation from a majority of the Committee members. The Committee had con-

¹⁵ See p. 41.

¹⁶ H. Rept. 395, 68 Cong., 1 sess., pt. 1, p. 21; Sen. Rept. 406, 68 Cong., 1 sess., p. 16.

¹⁷ Cong. Rec., 68 Cong., 1 sess., p. 5194.

sidered it in private session for two weeks after the public hearing was concluded, and voted to recommend this amendment. The vote was fifteen to six.¹⁸ The chairmen, Mr. Graham and Mr. Montague of Virginia, Mr. Dominick of South Carolina, and Mr. Weller of New York were strongly enough opposed to it to submit a minority report stating their objections.¹⁹ Mr. Sumners of Texas and Mr. Wise of Georgia probably made up the other two votes against it in committee.

This chapter is particularly concerned with the amendment in committee and in the hearings conducted by the Senate in 1923, and by the House of Representatives in 1924. The organizations and groups represented at these hearings will be discussed. The committee entrusted with consideration of a measure must decide if

there is a situation which needs correction... and whether or not sentiment in the country is ready for change. It must devise appropriate means of putting the change into effect, so that there will be the least objection from the public, particularly from interested groups, and must adjust its proposals to meet the needs which these groups are able to demonstrate to it.²⁰

The function of the hearing is defined as follows:

The public hearing is an important part of the work of a committee. It gives the interests concerned in

¹⁸ Ibid., p. 7176.

¹⁹ H. Rept. 395, 63 Cong., 1 sess., pt. 2, pp. 1-10.

²⁰ Chamberlain, op. cit., p. 63

a proposal an opportunity and puts upon them the duty to express in public their reasons for and against it and to inform, not only the committee itself, but the larger public behind the committee as to the facts. Members of the committee have an opportunity to ask questions publicly, and thus to apply the test of cross-examination. Since a record is kept and printed, both members of Congress and the interested public can form a judgment on the committee's action and on the points of view of the different interests....The committee itself must be the guardian of the general public interest, too large and too vague to be organized.²¹

The hearing before the subcommittee of the Senate Judiciary commenced on January tenth, 1923, and was resumed on the fifteenth and again on the eighteenth. Approximately eleven hours were consumed in listening to the testimony and in public discussion. The House Judiciary Committee opened its hearing February seventh, 1924, and continued on the fifteenth and sixteenth, again on the twenty-seventh, twenty-eighth, twenty-ninth, and March first, sixth, seventh, and eighth. As nearly as could be approximated, the number of hours so employed came to nineteen.

In each case, time was quite fairly divided between those desiring to present testimony for and those arguing against the proposed amendments. Mr. Foster, a Representative from Ohio and a member of the House Committee, once objected to partiality on the part of the chairman, Mr. Graham of Pennsylvania, who was opposed to the proposition.

²¹ Ibid., p. 79.

The latter had tried to cut off Mr. Foster's interrogation of a witness testifying against an amendment. Mr. Foster complained that speakers supporting child labor regulation had been hurried through and that the chairman was trying to let testimony of the opposition go unquestioned.²² Twice the chairman interrupted members when they were questioning witnesses because, he said, motives of the parties were irrelevant, and, that the Committee was interested in the soundness of their reasoning. He thought other matters could be better left to the private Committee meeting.²³ These were the only complaints registered against the method of conduct of the hearings, and there is little reason to suspect unfairness to either side.

The opposition was apparently following a method of delay for, at the Senate hearing, Senator Overman requested an opportunity to present witnesses against the amendment at a later date;²⁴ and in the House hearing, almost three weeks after the commencement of the testimony, Mr. David Clerk of the opposition asked for a chance to present speakers another week later.²⁵ Despite the fact that members eager

²² H. Doc. 497, 68 Cong., 2 sess., p. 156.

²³ Ibid., pp. 167-170, 139-140.

²⁴ Senate Judiciary Committee Report, 68 Cong., 1 sess., Child Labor Amendment, Appendix (Hearings of subcommittee), p. 20. (This report was a committee print and had no number. Later references will be made as Sen. Hearings.)

²⁵ H. Doc. 497, 68 Cong., 2 sess., p. 117.

to get a bill reported to the House objected, his request was granted, and the time of the hearing extended.

Although the reports of the hearings do not record the committee members present at each session, it is probable that the three Senators who comprised the subcommittee studying the child labor problem were present quite regularly. It is evident, too, that other interested Senators attended at various times. It is likely that the House Judiciary Committee, composed of twenty-one members, conducted most of its public sessions without all the members present. On two occasions reference was made to the absence of a quorum, and the second time, the chairman merely assumed that the hearing would proceed without a quorum.²⁶ It may be conjectured that similar circumstances prevailed at other sessions.

The general duty of the standing committee and the purpose of a public hearing have been mentioned briefly. The particular questions before the House Judiciary Committee were phrased by the chairman: "...whether this [child labor regulation] is a proper subject for amendment to the Constitution, and also, if that were decided affirmatively, in what language the amendment should be

²⁶ Ibid., pp. 82, 130, reports for Feb. 27 and 28. In the remaining five sessions no mention is made of the number present, but it is likely that the formality was overlooked since the committee had previously agreed to carrying on without even a quorum.

couched."²⁷

Parties interested in promoting a child labor amendment had met during the summer of 1922 to discuss the problem and to plan means of acquiring Congressional support. The conference was called by Mr. Samuel Gompers, President of the American Federation of Labor, and leaders of various organizations attended. They formed the Permanent Council for the Abolition of Child Labor as a step in support of an amendment.²⁸ They drafted the amendment resolution, later introduced by Senator McCormick,²⁹ and the persons at this meeting made up a large portion of the number who appeared at the hearings of the Senate Judiciary subcommittee.³⁰ Many of the groups agitating for this change recommended the McCormick resolution specifically, but they were all agreed that the final form should be the best possible. Their support was not lessened when the House and Senate Committees reported the resolution in modified form.³¹

²⁷ Ibid., p. 29.

²⁸ Sen. Hearings, p. 21.

²⁹ See p. 39, No. (3).

³⁰ Sen. Hearings, p. 49.

³¹ See p. 41. Differences between the one reported and the McCormick resolution were principally in terminology, which was changed in the interests of clarity and conciseness.

The invalidation of the two national child labor laws proved to proponents of federal regulation that an amendment to the Constitution was necessary. But these people were already convinced that the action states were taking was inadequate, and that some sort of federal regulation was essential. However, in the final analysis, justification for an amendment to give Congress the power to regulate child labor had to rest on proof that Congressional action was necessary. Consequently, arguments advanced as to the necessity for an amendment were all based upon this premise. The various points made were summarized by Miss Grace Abbott, Head of the Children's Bureau in the United States Department of Labor.³² The fact that there were large numbers of children employed in spite of state laws regulating child labor, and the moral repugnance to child labor constituted one principal theme. In some states powerful industries prevented the passing of adequate laws or efficient enforcement of them. Products made by child labor passed to all parts of the country. Children could migrate from state to state, carrying with them the results of child labor (such as illiteracy and poor physical development), from a low-standard state to a high-standard state.

³² Miss Abbott presented practically the same arguments and evidence at both Senate and House hearings. The latter are summarized because they were presented more concisely.

Industries in states having a high standard were said to be at a disadvantage in competition with those in states having poor child labor laws. Finally, the point was made that employers or the employed children could evade state laws by dodging behind state lines.³³ Some of these statements require an explanation of their foundation. The influence which a powerful industry could wield in controlling a state law has already been discussed.³⁴ The distribution of products of child labor in all parts of the country as a reason for national control was based on the assumption that there is a moral repugnance to child labor, and that consumers of goods had no way of telling when children had been employed in their production, because of the wide distribution enjoyed by goods produced in any one place today. The argument was made that if it were not for our federal form of government, each state wishing to do so could exclude products of child labor by taxation or by demanding that commodities imported be manufactured under certain conditions of employment. The first federal law had specified conditions of labor under regulation of interstate commerce. Because the state is not allowed to protect its inhabitants in this way, it was contended, the federal government was

³³ H. Doc. 497, 68 Cong., 2 sess., pp. 24-25.

³⁴ See p. 35.

clearly obliged to see that they were protected.

The statement was made that children could migrate from state to state. Thus, a person might inflict upon a state maintaining high standards the results of a childhood of work in a state of low child labor regulations. This contention was based on the premise that child labor is productive of illiteracy or poor physical development. It was argued that a state which protected its own children should not have to receive citizens who had suffered from lack of such protection. There are no statistics to show whether child labor in general is injurious to proper growth, although it is obvious that early work in some strenuous types of occupation could seriously affect a child's health. It was concluded in a study made by the National Industrial Conference Board that available data on the effect of employment on illiteracy was inconclusive.³⁵

In regard to the next reason mentioned (that industries in a state with high standards suffered in competition with those in a state of poor standards), it is supposed that employers in the latter state were able to obtain cheaper labor and so operate at a greater profit. This argument was a favorite one in objection to raising standards

³⁵ Employment of Young Persons in the United States, pp. 40-41.

within a state.³⁶ Its basis in fact is doubtful as the employment of young children is probably uneconomical in the long run.³⁷ Neither is it altogether true that manufacturers in states having fairly good laws favored the establishment of a national minimum by amending the Constitution. Massachusetts had a comparatively good child labor law and textile interests there were said to be at a disadvantage because southern states with lower standards afforded cheap labor to textile manufacturers. There was evidence, however, that Massachusetts employers, particularly in industry, opposed the child labor amendment both in Congress and after it was submitted to the states.³⁸

The situation where employers, or the children hired, evaded laws by dodging behind state lines was supposedly a direct result of this competition just discussed. For example, jobbers in New York, to escape a state law which attempted to control tenement home work, sent their piece work to be done in New Jersey. New Jersey officers could

³⁶ H. Doc. 497, 68 Cong., 2 sess., p. 75.

³⁷ John R. Commons and John B. Andrews, Principles of Labor Legislation (4th ed.), p. 177.

³⁸ See p. 70. The Associated Industries of Massachusetts was included among the groups represented by Mr. Emory, Counsel for the National Association of Manufacturers, at the House hearing. H. Doc. 497, 68 Cong., 2 sess., p. 201.

not do any more than those in New York about the children employed because the men who should have been punished were in another state. There were also records of children who sought work outside their home state where school requirements in that state would have prohibited their employment.³⁹ Additional evidence demonstrated that the federal laws had been influential in decreasing the numbers of children working.⁴⁰ Other testimony introduced to prove the necessity for federal action emphasized the inadequacy of state laws as evidenced by comparison with the standards set up in the federal laws.⁴¹

Many organizations favoring a child labor amendment were represented at the hearing in January, 1923.⁴² The American Federation of Labor sent its President, Mr. Samuel Gompers, who had been responsible for the conference on child labor the previous summer, and who had obviously arranged the group testifying at this hearing.⁴³ The Federation had its headquarters in Washington and conducted con-

³⁹ H. Doc. 497, 68 Cong., 2 sess., pp. 24-25.

⁴⁰ Ibid., pp. 38-39, 52-56.

⁴¹ See p. 31.

⁴² See Appendix (I) for a list of individuals and the organizations they represented.

⁴³ Sen. Hearings, pp. 21, 49.

tinuous lobbies for legislation favorable to labor. Its average membership for 1922 was 3,195,636, and the annual convention of the Federation that year had adopted a special committee recommendation to support a child labor amendment.⁴⁴

The most valuable information derived from the hearing, as far as the whole problem of child labor was concerned, was that presented by Miss Grace Abbott, Head of the United States Children's Bureau. She was the only witness appearing who was thoroughly familiar with conditions of child labor and the status of legislation in the states. Her testimony answered one of the primary purposes of a committee investigation. Her experience in administration of the first federal child labor statute gave her a practical basis for advice as to the success of federal legislation. The attitude of the Secretary of Labor was also favorable to an amendment as confirmed by a communication from him which was read at this hearing.⁴⁵

Mrs. Florence Kelley represented the National Consumers' League. She stressed the inequality among state laws and the inefficiency of their administration as reasons for passing an amendment. The National Consumers' League

⁴⁴ The American Labor Year Book, 1923-1924, pp. 47, 54-55.

⁴⁵ Sen. Hearings, p. 49.

had instructed her to attend the conference called by Mr. Gompers, and to make adoption of the amendment her chief concern in relation to Congress.⁴⁶ She was apparently the "legislative secretary" or lobbyist for this organization, although she bore the title of "general secretary." Mrs. Kelley was an experienced social worker, formerly associated with Hull House, Chicago. This league was then backing other types of labor legislation and carrying on a ten-year campaign to bring about an eight-hour day and minimum wage standards for all workers through state laws. It had made investigations of women and child workers in various industries and its reports were accepted as authoritative by educational institutions as well as by legislators. These reports and the agitation by the League had before proved important in the field of legislation; the support of the Consumers' League and similar bodies for social legislation was more notable than that of trade unions which, in many cases, had opposed it. This League frequently cooperated in campaigns with the American Association for Labor Legislation, the National Child Labor Association, and the League of Women Voters.⁴⁷ The prestige of the president,

⁴⁶ Ibid., p. 49.

⁴⁷ George Soule, "National Consumers' League", Encyclopedia of the Social Sciences (1st ed.), vol. IV, pp. 291-293.

Newton D. Baker, undoubtedly added strength to the influence of the Consumers' League.⁴⁸

The National Child Labor Committee compared very favorably with the Children's Bureau of the Government Labor Department in its knowledge of the child labor problem. Established in 1904, this Committee had carried on a continuous fight to rid the country of child labor; it had assisted in passing state legislation and had actively supported the two federal laws. It had been one of the principal advocates for establishment of the Children's Bureau in 1912. The Committee had probably done more than any other organization in educating the country to an awareness of child exploitation, and was largely responsible for the eradication of many of the evils of child labor. Mr. Owen R. Lovejoy, also holding the title of "general secretary", represented the National Child Labor Committee at this hearing, and he was evidently situated in Washington as a regular connection with Congress. Mr. Wiley H. Swift, counsel for this Committee, had participated in the drafting of the McCormick resolution for an amendment.⁴⁹ Mr. Lovejoy's arguments in support of a child labor amendment showed a wide knowledge of child labor legislation. He stated that federal laws had the effect of

⁴⁸ Americana, 1923, pp. 570-571.

⁴⁹ Sen. Hearings, p. 55.

increasing public interest and improving state standards, and even that an amendment without subsequent federal legislation would tend to better state laws. In the absence of national control, he said, powerful interests in some states wielded enough influence to prevent improvement or enforcement of state laws. He contended that federal regulation be an economic as well as a humanitarian measure in that it would advance the condition of children and eliminate unfair competition between states.⁵⁰

The Federal Council of Churches of Christ in America was an organization of Protestant Churches, including in 1923 twenty-nine denominations. Its representative at the hearing maintained that the Council as a whole was jealous of the rights of states, but felt in this case that national control was a necessity.⁵¹ Although the Council counted as communicants 20,724,919 individuals and 149,421 local churches, the Council itself consisted of four hundred members who met every four years. There was an executive committee of one hundred members who met annually, and while the sentiment of the collective membership should not be disregarded entirely, it is safe to assume that policy was directed by the one hundred or the four hundred. The national office was in New York

⁵⁰ Ibid., pp. 52-56.

⁵¹ Ibid., p. 57

City, but an office was also maintained in Washington, indicating close contact with legislation.⁵² In judging the influence on committee members of this organization's support for a child labor amendment, the moral effect of a large group of Christian people behind it should not be underestimated. The Council's statement virtually registered the stand of Protestant Churches in the United States as opposed to child labor and anxious to abolish it in the most effective way.

The attitude of the National Catholic Welfare Council in support of this grant of power to Congress is noteworthy in view of the active opposition of this Church to be seen later in some states, particularly Massachusetts. This Welfare Council was instituted "...to unify, co-ordinate, and encourage all activities of the Catholic Church in America."⁵³ The National Councils of Catholic Women and of Men were branches of this body. It must be stressed, in view of later events, that the Council was "...primarily a service organization under control of the hierarchy."⁵⁴

The appearance of a delegate from the American

⁵² Figures from Americana, 1924, p. 198.

⁵³ Americana, 1924, p. 165.

⁵⁴ Loc. cit.

Federation of Teachers, supporting an amendment, is significant because of the close association between education and child welfare. However, this body was only one of the various teachers' organizations, and it was notable for its affiliation with the American Federation of Labor.⁵⁵ Consequently, one must regard this Federation of Teachers, not only as a group of educators, but also as a representative of labor interests. Miss Selma Borchardt, delegate of the Federation, contended that the relatively high rate of illiteracy in some states was due to poor, or poorly enforced, child labor laws.⁵⁶ The National Child Labor Committee had recently published maps which demonstrated the similarity between states with the lowest child labor standards and states with the highest percentage of illiteracy, and these maps may have been Miss Borchardt's source of information.⁵⁷ A later study indicates, however, that the causal relation assumed between child labor and illiteracy was unfounded.⁵⁸

Other groups which testified in support of a child

⁵⁵ Walter R. Shapp, "The Teaching Profession," Encyclopedia of the Social Sciences (1st ed.), vol. XIV, p. 551.

⁵⁶ Sen. Hearings, p. 62.

⁵⁷ National Child Labor Committee, American Child, vol. IV (November 1922).

⁵⁸ See pp. 52-53.

labor amendment consisted largely of numerous women's clubs. Their testimony probably did not influence the subcommittee greatly, although the large number of delegates appearing indicated that women in the country were generally in favor of an amendment. Most of these clubs were members of the Women's Joint Congressional Committee, which had been established as "...a means of making known their wishes in Washington."⁵⁹ This fact explains in part the organized pressure of these women's societies evidenced at the hearing. It is of significance that all the bodies making up this Congressional Committee endorsed federal action on child labor, whereas previous measures had never enlisted the support of every group represented.⁶⁰ Action in these cases usually consisted of presenting a resolution for an amendment which had been adopted by the particular club represented. Few attempted more elaborate testimony than a general endorsement of the policy involved, though some ventured statements approving the McCormick Resolution in particular.⁶¹

The presence of the Hon. Albert Thomas, Director of the Bureau of International Labor in Geneva, Switzerland, was significant principally because he described the standards

⁵⁹ Americana, 1924, p. 846.

⁶⁰ Cong. Rec., 68 Cong., 1 sess., p. 7183.

⁶¹ Sen. Hearings, p. 63 et passim.

of child labor legislation in various foreign countries. The United States suffered by comparison with some of these because it did not have a national law, and thus no one standard for the country as a whole.⁶² Mr. Samuel Gompers emphasized the point that the United States had been influential in raising child labor standards in other countries by leading the way with her federal laws, and by her work towards establishment of the International Labor Organization. The United States was not, however, a member of this body.⁶³

Opposition to proposed child labor amendments was meagre in contrast to the support manifested by the large number of associations represented which favored such an amendment at the Senate subcommittee hearing. Only seven individuals testified against it and only one organized group sent a speaker. That was the American Constitutional League, the purpose of which was to prevent further changes in the United States Constitution. This League purported to oppose an amendment on the ground that it would take away from the states power guaranteed to them by the Constitution. The chairman of its executive committee, who appeared at the hearing, argued, however, against giving Congress the power because of the practical consideration that the several states could cope with the varying conditions within their boundaries

⁶² Ibid., pp. 73-79.

⁶³ Ibid., pp. 69-70.

more efficiently than could the national government. He also contended that work was necessary for young people and that to prohibit such work would make a "race of paupers."⁶⁴ In other words, the American Constitutional League was not opposed to an amendment exclusively on the principle of protecting the Constitution.

The primary opposition, however, was arranged by Mr. David Clark, editor of The Textile Bulletin of Charlotte, North Carolina.⁶⁵ He had already delayed the hearing in order to assemble his speakers,⁶⁶ whom he had admittedly asked to appear against an amendment.⁶⁷ The persons were officers of state departments in North and South Carolina connected with enforcement of state child labor laws, and a state Senator (who was also a cotton manufacturer) from North Carolina. Their testimony explained the operation of child labor provisions in these two states, and the fact that citizens of the states were satisfied with the laws. The speakers contended that the federal laws had not helped conditions in North and South Carolina, but that people had objected to

⁶⁴ Ibid., pp. 96-98.

⁶⁵ Ibid., p. 112. At the hearing conducted by the House Judiciary Committee a year later, Mr. Clark's publication is referred to as the Southern Textile Bulletin. See H. Doc. 497, 68 Cong., 2 sess., p. 225.

⁶⁶ See p. 43.

⁶⁷ Sen. Hearings, p. 112.

interference from the Federal Government. They also defended the cotton manufacturers as cooperating in administration of their state laws. Mr. Clark, himself, insisted that the southern states had adequate child labor laws, and offered to present a brief elucidating those laws. His statement that it would take a week to prepare this brief arouses suspicion that the real purpose was to delay final consideration by the subcommittee.⁶⁸ There is evidence brought out later that Clark was working in the interests of textile manufacturers in the southern states.⁶⁹ It follows that opposition which he organized should be judged as representing this group. The fact that the 1920 Census showed large numbers of children employed in manufacturing in the South⁷⁰ leads one to believe that the manufacturers were motivated by a desire to prevent interference with a supply of cheap labor. It is also noteworthy that when the first federal child labor bill was being considered in Congress in 1916 the principal groups opposing it were an organization called the Southern Cotton Mills and the National Association of Manufacturers. Likewise, manufacturers' associations in Virginia, North Carolina, South Carolina, and Alabama had opposed improvements in state child

⁶⁸ Ibid., pp. 99-116.

⁶⁹ H. Doc. 497, 68 Cong., 2 sess., pp. 238ff.

⁷⁰ U. S. Census: 1920, Population, vol. IV, pp. 519-596.

labor regulations. Mr. Clark had also figured among the opponents of this bill.⁷¹

The hearing conducted by the House Judiciary Committee in February and March 1924 showed a marked similarity to the Senate hearing in groups represented at it.⁷² Miss Grace Abbott presented a complete analysis of child labor conditions and the extent of regulation,⁷³ while the National Child Labor Committee, the Federal Council of Churches of Christ in America, and various women's and other associations presented testimony advocating an amendment. Seven members of the House of Representatives, five of them from Massachusetts, took the occasion to urge that an amendment be favorably reported.⁷⁴ Mr. Foster, a representative from Ohio and a member of the Judiciary Committee, argued in support of federal regulation continually throughout the sessions of the hearing.

As a delegate from the Women's Committee for a Child Labor Amendment, Miss Mary Stewart testified in favor of granting Congress power to control child labor. This Committee embraced sixteen national women's organizations, each of which had passed a resolution favoring an amendment with

⁷¹ H. Rept 46, 64 Cong., 1 sess., (Report submitted by Mr. Keating, Committee on Labor) pt. 1.

⁷² See Appendix I.

⁷³ H. Doc. 497, 68 Cong., 2 sess., pp. 17, 30, 58, 261.

⁷⁴ It is notable that Massachusetts delegates favored an amendment in connection with the later refusal of that state to ratify the amendment. See pp. 99, 115.

an eighteen-year age limit.⁷⁵ The cooperation of these associations to send one representative accounts for fewer women's groups being represented at this hearing.

Opposition to the child labor amendment was more conspicuous than it had been the previous year at the Senate subcommittee hearing; twenty-three individuals testified, or submitted briefs against the proposed resolution, as contrasted to seven persons who opposed it at the former hearing. Nine organizations of various types were represented as such, while other groups had allegedly requested delegates to speak for them although the witnesses technically presented their own opinions.⁷⁶ Chief among those hostile to the measure were patriotic associations such as a Women's Constitutional League of Maryland and the Sentinels of the Republic. Their purpose was to prevent further amendment of the Constitution. Arguments of agents for these societies

⁷⁵ H. Doc. 497, 68 Cong., 2 sess., pp. 61-65. The organizations were: American Association of University Women, American Federation of Teachers, American Home Economics Association, General Federation of Women's Clubs, Girls Friendly Society of America, National Congress of Mothers and Parent-Teacher Associations, National Consumers' League, National Council of Jewish Women, National Council of Women, National Education Association, National Federation of Business and Professional Women's Clubs, National League of Women Voters, National Women's Christian Temperance Union, National Women's Trade Union League, National Board of Young Women's Christian Association, Service Star Legion.

⁷⁶ See Appendix II for lists of persons at hearings and organizations represented. Also see H. Doc. 497, 68 Cong., 2 sess., pp. 77, 98.

centered in the need for local responsibility in the matter of child labor, and the dangerous tendency toward over-centralization which, they contended, was doomed to upset the federal form of our government.⁷⁷ The president of the Woman Patriotic Publishing Company attacked the proposal for an amendment on all sides. She asserted that federal regulation would invade "the privacy of the home," that some children would be better off with technical training than with the prevailing type of school education, and that increased regulation of child labor would tend to aggravate conditions rather than to alleviate them. She also assailed the amendment as inspired by Socialists and maintained that the next step (if the amendment were adopted) would be state support of all children. Her testimony even included a thrust at the Children's Bureau, which, she said, showed evidence of contact with Russia, and an essentially communistic aim.⁷⁸

It is impossible to tell accurately the number of people connected with the groups "protecting the Constitution", or to estimate how well the delegates portrayed their sentiments. But it is worth our while to identify some of the

⁷⁷ H. Doc. 497, 68 Cong., 2 sess., pp. 82-87, (Testimony of Austin G. Fox, representing the Moderation League); pp. 93-105, (testimony of Willis R. Jones, who was asked to speak by the Women's Constitutional League of Maryland); pp. 106-108 (testimony of Mrs. Ruben Ross Holloway, representing the Women's Constitutional League of Maryland).

⁷⁸ Ibid., pp. 152 ff. (statement of Miss Mary G. Kilbreth).

organizations. The Moderation League was formed at a time when its leaders were impressed with the undesirability of the Volstead Act, although the alleged purpose of the League was to "preserve the rights guaranteed to us under the Constitution -- to preserve the fourth and fifth amendments."⁷⁹ The Women's Constitutional League of Maryland had an active membership of between forty and fifty-one women at that time.⁸⁰ The Women's Patriotic Publishing Company was an apparently small group of women interested in constitutional questions. Four members of the board of directors had planned the policy to be followed for the year, and much of the Company's work was concerned with influencing lawyers and members of Congress. This association was also descended from one which had originated in protest to another amendment, this time the Woman Suffrage bill. Its representative emphasized the independent status of the group, denying that it was affiliated with capital or labor interests.⁸¹

The Sentinels of the Republic claimed to have members in every state in the union. They were organized for the purpose of "preserving the Constitution." Mr. Louis A. Coolidge, chairman of the Sentinels, testified against the

⁷⁹ Ibid., p. 87 (statement of Austen G. Fox).

⁸⁰ Ibid., p. 107 (statement of Mrs. Ruben Ross Holloway).

⁸¹ Ibid., pp. 158, 159, 167-169 (statement of Miss Mary G. Kilbreth).

measure to give Congress authority to regulate child labor entirely on the ground that it was an invasion of rights belonging to the states and to the people. Mr. Coolidge of Boston was also Treasurer of the United Shoe Machinery Corporation.⁸² Although definite proof is lacking, the implication that the Sentinels of the Republic was backed by manufacturing interests is clear. Furthermore, the well-financed campaign which this group launched against the amendment when it was before the states indicated a greater source of revenue than a social reform group was likely to command.⁸³ Several individuals, most of them from Baltimore, Maryland, also appeared to refute the purpose of an amendment because they felt that it would invade the rights of the states.

The second principal source of opposition was the American Farm Bureau Federation which purported to represent the opinion of farmers throughout the country. Its membership was estimated at 1,200,000 in 1921, and by 1931 it was the third farm organization in size in the United States. Its chief strength lay in the Middle West and, outside this section, in California and New York. One authority says that no other farmers' organization, with the possible exception of the Non-Partisan League, had ever had so much money to

⁸² Ibid., pp. 216-219.

⁸³ J. E. Hulett, Jr., "Propaganda and the Proposed Child Labor Amendment," summarized in The Public Opinion Quarterly, vol. II (Jan. 1938), pp. 105-115.

spend. The first years of the Federation were devoted largely to Congressional lobbying and efforts toward big cooperative enterprises.⁸⁴ Authority for its opposition to a child labor amendment was derived from a policy formed by the executive committee and approved by state Farm Bureaus. It was brought out, however, that about ninety per cent of its members were also members of the Grange, another farmers' organization, and that the Grange had endorsed the cause.⁸⁵ This discrepancy can be explained only by assuming that the policy followed by one or both of these groups was not truly endorsed by its constituents. Testimony from the American Farm Bureau Federation as a unit, and that of a California Bureau, both stressed the idea that farm labor did not need this type of regulation and intimated that work on farms should be specifically excluded in provisions of the amendment. Dr. Walker, speaking for the Willow, California, Bureau, even stated that its members would approve a bill which excluded agriculture.⁸⁶ The actual strength of opposition sentiment in the American Farm Bureau Federation might be doubted because this policy is omitted from a list of activities of the Federation in connection with Congress

⁸⁴ H. H. Hibbard, "American Farm Bureau Federation," Encyclopedia of Social Sciences (1st ed.), vol VI, pp. 105-106.

⁸⁵ H. Doc. 497, 68 Cong., 2 sess., p. 252.

⁸⁶ Ibid., pp. 251-254 (statement of Mr. Gray Silver), pp. 78-79 (statement of Dr. W. H. Walker).

during 1924. This summary enumerates lobbies carried on by Federation representatives, but the stand of the Federation on the child labor question is conspicuous by its absence.⁸⁷

The third major class of antagonists to testify at this hearing was made up of manufacturers. Mr. David Clark, editor of the Southern Textile Bulletin, who had championed the cause of textile manufacturers in the South at the Senate hearing,⁸⁸ rallied an even more potent attack on the measure than before. His testimony included every conceivable objection to a child labor amendment: he said that federal regulation was unnecessary because states were well able to care for labor conditions within their boundaries, and that the evil was exaggerated anyway. And he went to the other extreme by insisting that national control was inadvisable because of the huge governmental expense it would entail.⁸⁹ This contention was controverted by the Children's Bureau report on administrative expense in connection with the previous federal laws and the statement that adequate enforcement of another law would require a comparable amount.⁹⁰ Mr. Clark had again brought witnesses who testified to the

⁸⁷ Americana, 1925, pp. 261-262.

⁸⁸ See p. 65.

⁸⁹ H. Doc. 497, 68 Cong., 2 sess., pp. 223-251.

⁹⁰ Ibid., pp. 41ff.

efficiency of the state child welfare provisions in North Carolina, as support for his theme that state regulation was better than national.⁹¹

Another source of opposition was the National Association of Manufacturers whose "general counsel" in Washington undertook to offer adverse testimony in behalf of that Association and similar ones in twenty-eight states. Actually, the resolution to oppose the child labor amendment had been adopted by one or two representatives from each of these state associations in conference. Although it was stated that these delegates had acted on instructions from their associations, there is no assurance that all the manufacturers so represented agreed on the policy. One is further suspicious of the authenticity of this policy on studying the phraseology of the resolution. It abounded in such terms as "invasions of the ... prerogatives of the States", "the dignity, duty, and necessity for labor", and it stressed the point that forty-two states had laws "fully up to the requirements of attempted Federal legislation."⁹² Mr. Emery's testimony for the National Association of Manufacturers was further discredited in the course of Congressional debate on the

⁹¹ Ibid., pp. 188-200 (statement of E. F. Carter, Executive Secretary of the Child Welfare Commission, North Carolina), pp. 220-223 (statement of Mrs. Kate B. Johnson, Chairman of the Child Welfare Commission, North Carolina). Mr. Carter even said that supervision of child labor had been more efficient after the federal law was declared unconstitutional than when it was in force.

⁹² Ibid., pp. 200-214 (statement of Mr. James A. Emery).

amendment. Senator Reed from Missouri, who opposed the amendment, contended that manufacturers as a class were not generally adverse to it, and that Mr. Emery very plainly did not represent the decent, responsible, element of that group.⁹³ Other individuals appearing to defend the viewpoint of manufacturers likewise based their attack on an amendment almost exclusively on the principle that it entailed overcentralization of government.⁹⁴ Probably the testimony of this group as a whole had little influence in persuading committee members that an amendment was not necessary. Two Senators who opposed the measure declared that manufacturers as a class were not adverse to it.⁹⁵ It looked as if they were desirous of removing from the forces arrayed against the amendment the stigma of including a group suspected of exploiting child labor.

To divine the motives of each group of people represented at these hearings would be an impossible, as well as a fruitless, undertaking. Nevertheless, mention should be made of one point in this connection. The assumption is obvious that if manufacturers, as a class, objected to child labor regulation, it was because they wished to exploit cheap

⁹³ Cong. Rec., 68 Cong., 1 sess., p. 9999.

⁹⁴ H. Doc. 497, 68 Cong., 2 sess., pp. 88-90, (statement of Mr. Ira Jewell Williams), pp. 109-115 (statement of Mr. Simon Miller).

⁹⁵ Cong. Rec., 68 Cong., 1 sess., p. 9998, (speeches of Senators Overman and Reed).

child labor. But this supposition should not be too readily accepted. All the persons who opposed the child labor measure insisted that they disapproved of industrial work for children too young to be fitted for it. This country long ago passed the stage when all work was lauded for its own sake, and today insidious motives would be ascribed to anyone defending the thesis that all children should do hard work, or that child labor should not be regulated by any legislation. People who had conscientious objections to a constitutional amendment, bestowing upon Congress the right to make laws for control of child labor, had to couch their objections in terms least offensive to American pride while still conveying their reasons. Even with this tempering explanation, the nature of the classes of citizens who opposed the resolution for an amendment, particularly groups of manufacturers and the farm bureaus, leads one to believe that self-interest prompted their antagonism. The factory interests were largely from the southern states where the standards of child labor laws were lower than in most other manufacturing states,⁹⁶ and one concludes that manufacturing powers within a state were influential in keeping state standards down, while they could have hoped for little influence upon a national law. The census figures for 1920 showed that sixty-one per cent of the gainfully occupied children between ten and fifteen years

⁹⁶ See summary of state standards, pp. 31-34.

of age were employed in agricultural and allied pursuits.⁹⁷ It is difficult to attribute to the American Farm Bureau Federation other motives than defense of this supply of child workers in their attitude toward the further regulation of child labor. The opinion is substantiated by the testimony of one Farm Bureau delegate who stated that the amendment would not be opposed if it specifically excluded control over children in agriculture.⁹⁸

Opposition to the amendment resolution, as evidenced by the committee hearings, had definitely grown from 1923 to 1924. The number of individuals making statements against it had increased from seven to twenty-three, and to the southern textile manufacturers had been added numerous manufacturers' associations from different parts of the country, objectors on grounds of constitutional theory, and a large farmers' organization. In spite of that fact, the House Judiciary Committee, which conducted the last hearing, reported favorably on a child labor amendment. The committee members were undoubtedly cognizant of the sources and nature of the opposition, and probably the belief that this opposition emanated from groups employing child labor lessened its influence on the committee's decision. Reports of private

⁹⁷ Compiled from U. S. Census, 1920, Population, vol. IV, pp. 376, 377.

⁹⁸ H. Doc. 497, 62 Cong., 2 sess., p. 80.

committee meetings are not published; consequently there is no way of knowing what discussion took place after each hearing. The testimony of Miss Grace Abbott of the Children's Bureau was the most forceful and well considered argument presented at either hearing. Possibly, if those adverse to the proposed amendment had put forth so well-informed a speaker, their influence might have been greater. But Miss Abbott, Mr. Foster and the National Child Labor Committee representative were the only speakers who demonstrated a wide knowledge of child labor conditions and their regulation, and all these were among the group advocating an amendment. It was concluded that Miss Abbott's testimony (and at the House hearing, Mr. Foster's able questioning and management), in addition to evidence of the large number of clubs and societies throughout the country which favored an amendment, were responsible for the favorable action taken by the House and Senate Judiciary Committees. The strong opposition at the later hearing was, nevertheless, registered in the minority report submitted by four members of the House Committee.

CHAPTER III

CONGRESSIONAL ACTION

In the House of Representatives the committee report on the child labor amendment was submitted by Mr. Foster of Ohio who had originally introduced that particular resolution. The chairman of the Judiciary Committee, Mr. Graham, of Pennsylvania, and three other members were opposed to this grant of power and signed a minority report to that effect giving their reasons. Mr. Summers of Texas did not concur in this action despite his insistent objections to amending the Constitution during the committee hearings.¹

As is customary, the committee reporting the measure arranged the time for debate, dividing its control between the two obvious leaders of opinion in that body, Mr. Foster and Mr. Graham. The principal members to advocate the amendment in the House debate were Messrs. Foster of Ohio, Hickey of Indiana, Michener of Michigan, and Larson of Minnesota.²

¹ H. Doc. 497, 63 Cong., 2 sess., p. 63 et passim.

² Other supporters were Messrs. Moore of Ohio, Yates of Illinois, Tinchner of Kansas, Kelly and Swoope of Pennsylvania, and Perlman of New York (all Republicans), Messrs. Celler, Dickstein, Jacobstein and Stengle of New York, Connery and Tague of Massachusetts, O'Sullivan of Connecticut, Crosser of Ohio, Watkins of Oregon, Cook of Indiana, Major of Missouri and Tillman of Arkansas (Democrats).

Opposition was most forcibly expressed by about twelve speakers: Messrs. Andrew of Massachusetts, Graham of Pennsylvania, Hill of Maryland, and Merrit of Connecticut (Republicans); Messrs. Linthicum of Maryland, Hawes of Missouri, Bulwinckle of North Carolina, McSwain of South Carolina, Blanton, Lanham, Summers of Texas, and Montague of Virginia (Democrats).

Not all of the advocates were committee members but the four outstanding ones mentioned were and so had the advantage of the testimony at the hearings. On the other hand, three of the principal antagonists were on the Judiciary Committee.³ Thus, it cannot be said that the committee reporting the measure stood firmly behind it on the floor of the House, but it was definitely divided in opinion.

In the Senate the movement for a child labor amendment was also supported by a scattered array of persons following neither committee nor party lines. Chief among its advocates were Senators Lenroot of Wisconsin, McCormick of Illinois, Fess of Ohio, and Shortridge of California, all of whom were Republicans, while the Democratic floor leader, Senator Robinson of Arkansas, and another prominent Democrat, Senator Walsh from Montana, urged action as well. Senators Shortridge

³ Messrs. Graham, Montague and Summers. For list of committee members see Congressional Directory, 68 Cong., 1 sess., (Jan. 1924) p. 195.

and Walsh were members of the Judiciary Committee reporting the resolution, as well as constituting (with Senator Colt of Rhode Island) the subcommittee appointed to study the matter and give audience to interested parties. Of the Senators opposed to changing the Constitution for this purpose, Moses of New Hampshire and Wadsworth of New York were Republicans; twelve Democratic Senators actively tried to defeat the proposal.⁴ Senators Overman and Reed from this group were committee members.⁵ Although a favorable committee report, which this resolution had in each instance (noting, too, the minority opinion of the House Committee) is a powerful aid in the progress of a piece of legislation, it does not necessarily constitute an assurance that the measure will be passed. Here it was plain that the committee backing was not what brought the favorable vote in Congress.

A review of the debates on the amendment resolution is more revealing as explanation of Congressional action. Proponents of the amendment resolution emphasized that a federal minimum standard for child labor was necessary because

⁴ Senators Bayard of Delaware, Broussard and Ransdell of Louisiana, Dial of South Carolina, Fletcher of Florida, George of Georgia, King of Utah, Overman of North Carolina, Heflin of Alabama, Stephens of Mississippi, Bruce of Maryland, and Reed of Missouri.

⁵ For list of Senate Judiciary Committee members, see Congressional Directory, 68 Cong., 1 sess., (Jan. 1924) p. 178.

of existing conditions and the inadequacy of state laws. Nearly every Senator or Representative who spoke for an amendment made this argument his chief stand, which, of course, was only natural, for the first duty of its advocates was to prove that the necessity existed. They went about the problem by quoting from Miss Abbott's testimony at the hearings, by giving census statistics, and by citing examples of child labor conditions which should be rectified. The inequality among state laws was frequently invoked as constituting a reason for a federal standard. Mr. Foster of Ohio, who so ably guided the defence of the amendment through the House Judiciary Committee, later managed it on the floor of the House with similar effectiveness. He stressed the need for giving Congress power to regulate child labor and supported his attitude by reference to high rates of illiteracy and juvenile delinquency in the United States which, he asserted, were due in large part to labor of children. He also compared this nation with several foreign countries that had definite national standards and pointed out that we were lagging behind in this respect. Other points used to impress the need for a federal standard were the apparent increase in child labor after the second federal law was invalidated, and medical opinion definitely unfavorable to child labor.⁶

⁶ Cong. Rec. 58 Cong., 1 sess. pp. 7177-7181, 7183.

As a corollary to the proposition that federal control was necessary, and as a refutation of the argument that it was an unwarranted centralization of power, advocates brought out that national regulation was also more efficient than state laws in coping with the problem; powerful manufacturing interests were able to interfere with administration or raising the standards in some states.⁷ They also contended that a uniform law would protect manufacturers from the unfair competition of states with lower standards, whereas the state authorities had no hold on other states.⁸ Evidence was cited to the effect that enforcement, even of state laws, had proved more efficient under the last federal law than when no minimum standard was in effect.⁹

Besides demonstrating that a federal minimum was necessary and that a national law was more effective in ways than state laws, proponents maintained that because so many people (as witnessed by the number of organizations favoring it) wanted a child labor amendment passed, it was the duty of Congress to submit one to the states and to let them decide.¹⁰

The Senators and Representatives opposed to the child labor amendment resolution based their thesis upon the prin-

⁷ Cong. Rec., 68 Cong., 1 sess., p 7251 (Mr. Hickey).

⁸ Ibid., p. 7275 (Mr. Moore).

⁹ Ibid., p. 7276 (Mr. Tillman).

¹⁰ Ibid., p. 7279 (Mr. Stengle), 7261 (Mr. Major).

ciple of government involved. As explained in regard to the testimony at committee hearings, no one could well justify opposition to regulation in this day on the ground that child labor was inherently right. So the opponents had to show that it was not a wise step because it offended the fundamental principles of federal and democratic government, and they tried to prove that state regulation was satisfactory and national control rendered unnecessary because no problem worthy of Congressional legislation remained. The proposition most frequently adopted by this side was that the amendment gave Congress a power which rightfully belonged to the states, a version of the old states' rights theory. Mr. Graham from Pennsylvania said, in this connection, that the amendment took away sovereign rights of the states and that even if three-fourths of the states approve it, the other fourth would lose its rights without its own consent. He said that the second section of the amendment which aimed to preserve state control along with federal was useless; for though it preserved the rights of states literally, it violated the "spirit" of the Constitution.¹¹ Senator Wadsworth of New York, in the other chamber, denounced the amendment as tending toward an overcentralized or "imperial" government saying: ". . . Congress will gather within its jurisdiction the working life and the school life of every American

¹¹ Ibid., p. 7282.

under that prescribed age."¹² Other members saw a dangerous bureaucracy in the making if Congress could regulate labor of persons under eighteen years of age. Senator Bayard of Delaware insisted that government bureaus enforcing a federal law would gain control over education, and would antagonize states when they should encourage them.¹³ and Senator Broussard of Louisiana denounced the attempt to give Congress this power because it was, he said, part of a scheme to get complete control of children up to eighteen years of age. He pointed out that when they had reached eighteen they could be induced to join the army or navy and the government could control them longer.¹⁴ Contingent on the idea that the amendment looked toward a more centralized form of government was the bitter cry that its proponents were moved by socialistic or communistic sympathies. This objection was dramatically set forth by Senator Reed of Missouri: "It the amendment assassinates democracy and upon its grave establishes a hybrid monstrosity embracing all of the vices and possessing none of the virtues of state socialism and communism."¹⁵

The favorite theme of the opposition was to prove the

¹² Ibid., p. 9859.

¹³ Ibid., pp. 10003-10004

¹⁴ Ibid., p. 1008.

¹⁵ Ibid., p. 10084.

amendment contrary to our principles of government; they either called it bureaucratic or socialistic, or they just emphasized the danger of centralized control. But they also spent considerable energy to show that it was not necessary. They denied that statistics demonstrated a condition demanding a countrywide remedy and quoted the decrease in child labor from 1910 to 1920 as indication that the situation was well in hand under state regulation.¹⁶ Mr. Andrews of Massachusetts also contended that the improvement in child labor conditions removed any justification for a federal amendment.¹⁷ Representative Merritt of Connecticut remarked about statistics on employed children: ". . . practically all are engaged part time or during their school vacations, and they entirely fail to show that any considerable number are injured by the work which they do."¹⁸ One of the North Carolina Senators, Mr. Overman, maintained that federal regulation was unnecessary because the states could handle the problem more efficiently since state agents would have more intimate contact with the people and a better understanding of local situations. And he insisted that, if uniform standards were desirable, they should be brought about through equalizing state laws rather than "from above."¹⁹

¹⁶ Cf. Table 2.

¹⁷ Cong. Rec., 68 Cong., 1 sess., p. 7256.

¹⁸ Ibid., p. 7203

¹⁹ Ibid., pp. 9995-9, 1007⁴, 10075.

Those antagonistic to the proposed resolution refused to be impressed by the large number of organizations favoring it. They dismissed this support as being half-hearted approval of a resolution presented to them, rather than active enthusiasm for the cause. Mr. Graham placed responsibility for the whole campaign and the support of so many societies on Miss Abbott's influence,²⁰ while Mr. Montague doubted that the clubs and associations which favored the resolution had even read it through.²¹ Although there seemed to be no way in which self-interest could have motivated proponents of the amendment, it was intimated that the American Federation of Teachers had hoped for federal aid to education under this grant of power.²²

The accusation was made, too, that so many members would not be supporting the resolution if they had not been looking for votes in the fall election. This observation was mainly significant for demonstrating that even those opposed to amending the Constitution for the regulation of child labor suspected that popular opinion throughout the country was favorable to it. Various other objections were made by several Senators or Representatives, some contending

²⁰ Ibid., p. 7278.

²¹ Ibid., p. 7255.

²² Ibid., p. 9998 (Sen. Wadsworth).

that a major purpose of the grant of power was to take children out of farm labor,²³ others that the expense of administration would be extraordinarily large and that enforcement would duplicate the work done by state agencies for child labor regulation.²⁴

The fact that opposition of southern textile manufacturers was not discussed indicates that their attitude was an accepted fact and demanded little notice. Senator Dial of South Carolina, obviously catering to the interests of employers of children in the South, was the only one to mention the economic effect strict child labor regulation would have on the southern states. He said in part:

. . . If this kind of a proposition were to become a law, it certainly would reduce it [cotton production of the South] a full half. . . .it will [sic] bankrupt a great part of the country. . . . The people in the West and the South are in no condition to have that extra burden placed upon them at this time.²⁵

The form or wording of the amendment was vigorously attacked, particularly the eighteen-year age limit as being too high,²⁶ and the method of ratification by state legislatures was censured. Senators Overman and Reed wanted the

²³ Ibid., p. 7257 (Sen. Bulwinkle), 7198 (Sen. Lanham).

²⁴ Ibid., pp. 10004, 10005 (Sen. Bayard).

²⁵ Ibid., p. 10118.

²⁶ Ibid., p. 7202 (Mr. Merritt).

Madsworth-Garrett amendment²⁷ considered first while others desired that the resolution should be modified to provide for ratification by either conventions within the states, or by popular referenda.²⁸

Proponents of federal control of child labor answered these arguments in various ways. It was apparent that they had not reached any agreement on whether or not farm work should be regulated by a law, for some of them denied that agriculture would be covered²⁹ while others defended its inclusion on the ground that some of the worst exploitation of children was to be found in farm work.³⁰ The advocates were generally agreed, however, that the amendment resolution should be passed as it was worded, defending the age limit because it was necessary for regulation in hazardous occupa-

²⁷ The proposed Madsworth-Garrett amendment as amended by the Judiciary Committee in the Senate, provided for a change in the method of ratification of amendments to the Constitution. It would specify that tentative amendments be approved by "qualified electors", rather than legislatures, in three-fourths of the states, that rejection or ratification might be changed by any state until either three-fourths had endorsed it or one-fourth had rejected it, and that rejection by one-fourth of the states would be final. It also set a time limit of six years on ratification 68 Cong., 1 sess., Sen. Rept. 202, p. 1.

²⁸ Cong. Rec., 68 Cong., 1 sess., p. 10074 (Sen. Overman), 10094 (Sen. Reed).

²⁹ Ibid., pp. 7177-8 (Mr. Foster); 7202 (Mr. Cook).

³⁰ Ibid., pp. 7269, 7270 (Mr. Dickstein); 7202 (Mr. Cook).

tions, and because many state laws controlled labor of persons to eighteen years of age and beyond.³¹ The proponents also insisted that the traditional method of ratification by state legislatures should be followed because conventions were an unnecessary expense to states and guaranteed neither more thorough consideration for a measure nor better representation of the people.³² Undoubtedly, this last assertion was prompted by anxiety lest attaching more qualifications to ratification serve to defeat the amendment entirely.

Members of Congress who hoped to thwart the object of the resolution or to decrease the power allotted to the national legislature tried to modify the proposal by amendment. Here again the method of ratification by state legislatures was objected to and attempts were made in both the House and Senate to substitute "conventions." Some members proposed to limit time for ratification to seven, or five, years from the date of submission. Persons submitting these amendments were typically those who had argued most vehemently against the entire resolution.³³ Other suggested amendments would have limited the field of regulation to specific occupations as the two federal laws had done, or

³¹ *Ibid.*, pp. 7177, 7181 (Mr. Foster); pp. 10095, 10096 (Sen. Shortridge).

³² *Ibid.*, p. 10109 (Sen. Walsh of Montana); p. 10011 (Sen. Robinson).

³³ Messrs. Montague, Linthicum, *et al.* in House; Senators Bayard and Fletcher. *Cong. Rec.*, 68 Cong., 1 sess., pp. 7286-7289, 10009, 10141.

would have excluded agricultural and allied lines of work; but supporters of the resolution as it was reported from committee insisted that a constitutional amendment should be a general grant of power while such matters (i.e. exclusion of agriculture) should be left to statutes.³⁴ Senator Reed of Missouri proposed a whole series of amendments including one which would just strike out the phrase, "and prohibit" from the original wording.³⁵ Probably the most significant proposals for change were those to decrease the age limit of the resolution from eighteen years to sixteen. Many members in each house believed that Congress should not be given "power to limit, regulate, and prohibit the labor of persons up to eighteen years of age."³⁶ It has already been noted that the Committee of the Whole in the House approved a modification of the age limit to sixteen years,³⁷ and the House itself only defeated it by a vote of one hundred and ninety-nine to one hundred and sixty-nine.³⁸ The Senate was about equally divided on a similar amendment, preventing its acceptance by a forty-three to forty vote.³⁹

³⁴ Ibid., pp. 7290, 7292, 7293, 10124, 10125, 10139, 10140.

³⁵ Ibid., p. 10012.

³⁶ See amendments proposed to lower age limit to 17, 16, 15, or 14 years: Ibid., pp. 7289, 7290, 7292, 10012, 10139, 10140.

³⁷ Ibid., p. 7290. The vote in Com. of Whole was 148 yeas to 136 noes.

³⁸ Ibid., p. 7293.

³⁹ Ibid., p. 10140.

Other amendments may have been introduced by the opposition merely in hope of having the resolution recommit-
 mitted or to prevent its passage at that session. Supporters
 of the amendment resolution may have resisted changes largely
 because they were impatient to have some child labor amend-
 ment voted upon. But this age limit controversy was definitely
 a question in the minds of many Congressmen. Lowering the
 age was favored, not only by consistent objectors to the
 resolution as it then stood, but by some in each House who
 finally voted favorably on the Foster resolution.⁴⁰

It was evident that traditional opposition tactics were
 employed by groups desirous of defeating the bill. Practically
 the same individuals voted for each change suggested (except
 for vote on proposed age changes) and then voted against the
 final resolution. There is no doubt that they would have
 retained their position even if minor changes had been incor-
 porated in the amendment.⁴¹ However, this statement should
 not be construed to mean that each objector opposed the
 resolution for all the reasons suggested; without doubt,
 (those adverse to an amendment) collaborated in resisting
 each particular point so that one who was opposed to the
 inclusion of farming aided his own cause by favoring an amend-
 ment to change the method of ratification.

⁴⁰ Ibid., pp. 7290, 7293, 10140.

⁴¹ Ibid., pp. 7287 ff, 10009, 10129, 1014ff.

If the child labor amendment was not specifically backed by committee members or by party politics, neither was it exclusively an administration measure. As previous presidents had advocated federal regulation of child labor, so did President Coolidge in his message to Congress on December 6, 1923. He said in part: "For purposes of national uniformity we ought to provide, by constitutional amendment and appropriate legislation for a limitation of child labor. . . ."42

The Republican national platform in 1920 contained a plank for effective child labor regulation: "The Republican Party stands for a Federal child labor law and for its rigid enforcement. If the present law be found unconstitutional or ineffective, we shall seek other means to enable Congress to prevent the evils of child labor." The platform of the Democratic party also included a statement advocating child labor regulation, but in less specific terms than those mentioned above.⁴³ Women representatives on the national committee of each party both vouched for party support at the House Judiciary Committee hearing⁴⁴ It was thus apparent that both parties favored action which would take care of the child labor problem. Aside from the President's speech to the sixty-eighth Congress, there is no indication that

⁴² Quoted by Mr. Foster of Ohio, Ibid., p. 7182.

⁴³ Loc. cit.

⁴⁴ H. Rec. 497, 68 Cong., 2 sess., pp. 70, 81.

the administration urged passage of the child labor amendment. Without access to the personal records of President or Congressmen, however, one can not be sure that there was no other pressure from Coolidge or his aides.

The review of Congressional debates has demonstrated that party lines were not strictly adhered to on this question. An analysis of the vote confirms this view.⁴⁵ In the first session of the sixty-eighth Congress, the House of Representatives was composed of two hundred and twenty-four Republicans, two hundred and six Democrats, and one each of Farmer-Labor and Socialist members.⁴⁶ The resolution was passed in the House by a vote of two hundred and ninety-seven to sixty-nine, with sixty-six members not voting.⁴⁷ One hundred and sixty-eight of the favorable votes were cast by Republicans, one hundred and twenty-seven by Democrats, the other two by the Socialist and Independent members. The negative vote showed thirteen Republicans and fifty-six Democrats opposed. Also seventeen Republicans and five Democrats were paired in favor of the resolution, to five Republicans and six Democratic members paired against it. While the vote seemed to mark a tendency for Republicans to favor the measure and Democrats to oppose it, this apparent lineup was probably caused by the geographical sources of party strength rather than political

⁴⁵ For an analysis of the partisan vote in both houses by states, see Appendix IV.

⁴⁶ Congressional Directory. 68 Cong., 1 sess., (May 1924), p. 131. (There was one vacancy in the House.)

⁴⁷ Cong. Rec., 68 Cong., 1 sess., p. 7295.

affiliation. For example, leading Democratic opposition came from representatives of southern states,⁴⁸ while many members of that party from other sections of the country defended the amendment. All the Democratic members from Arizona, California, Colorado, Connecticut, Delaware, Illinois, Indiana, Kansas, Massachusetts, Michigan, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, Ohio, Oregon, Pennsylvania, Rhode Island, and Washington voted for or were paired in favor of the resolution.

An analysis of the Senate vote results in almost identical conclusions. Leadership in debate as divided between the parties has already been indicated.⁴⁹ The political makeup of the Senate was as follows: fifty-one Republicans, forty-three Democrats, and two Farmer-Labor Senators.⁵⁰ The roll call on the child labor amendment resulted in sixty-one yeas and twenty-three nays, twelve Senators not voting.⁵¹ Of the favorable votes forty were cast by Republicans, nineteen by Democrats and two by the Farmer-Labor delegation. Two Democrats were paired for it and one against it. The negative votes were cast by six Republicans and seventeen Democrats. Here again what little party alignment shows is more apparent than real, for the underlying division was more

⁴⁸ See p. 79.

⁴⁹ See pp. 78-80.

⁵⁰ Congressional Directory, 68 Cong., 1 sess., (May 1924), p. 129

⁵¹ Cong. Rec., 68 Cong., 1 sess., p. 10142.

geographical than partisan. Of the seventeen Democrats who tried to defeat the resolution all but Senators Bayard of Delaware, Edwards of New Jersey, and King of Utah came from southern states. However, the Republican opposition was scattered as to sections.

In spite of the planks on child labor regulation in both major party platforms in 1920, and the fact that some members of each party invoked these as definite pledges of support for a child labor amendment,⁵² neither political group could claim credit for the measure as exclusively the product of its own work.

Figures 1 and 2 demonstrate the votes in the House of Representatives and Senate by states, indicating the division as to the number of votes for and against in each. The district represented by each member of the House is not shown. In both cases support for the amendment was almost universal throughout the middle west and west, except for that of Idaho and Utah Senators. Senator King of Utah objected to the amendment as communistic and Bolshevistic,⁵³ but the attitude of the others is not explained. The concentrated resistance in the southern states was probably tied up with cotton growers' and cotton manufacturers' in-

⁵² Cong. Rec., 68 Cong., 1 sess., pp 7182, 7261.

⁵³ Ibid., p. 10007.

FIGURE 1. VOTE ON THE CHILD LABOR AMENDMENT, HOUSE OF REPRESENTATIVES

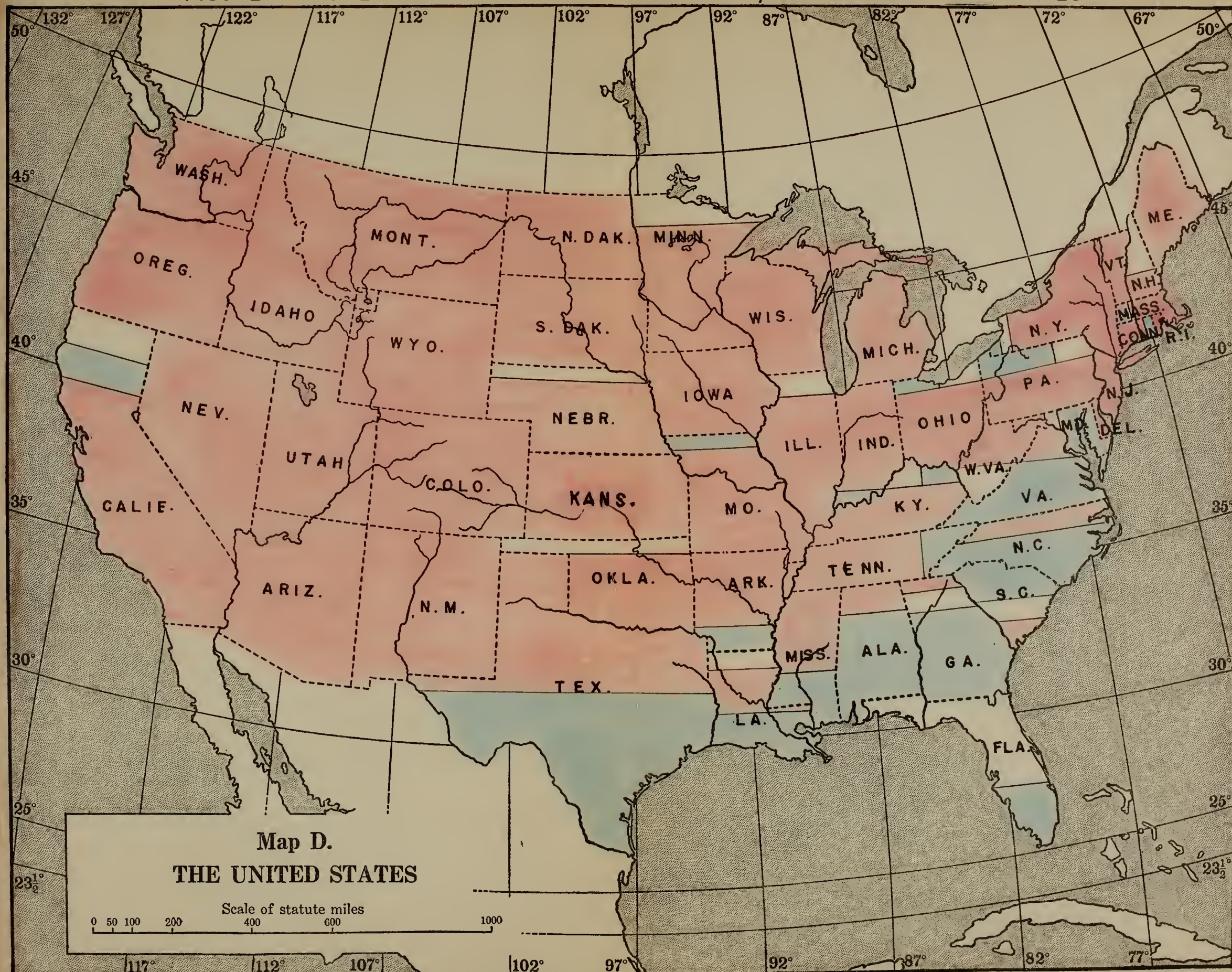
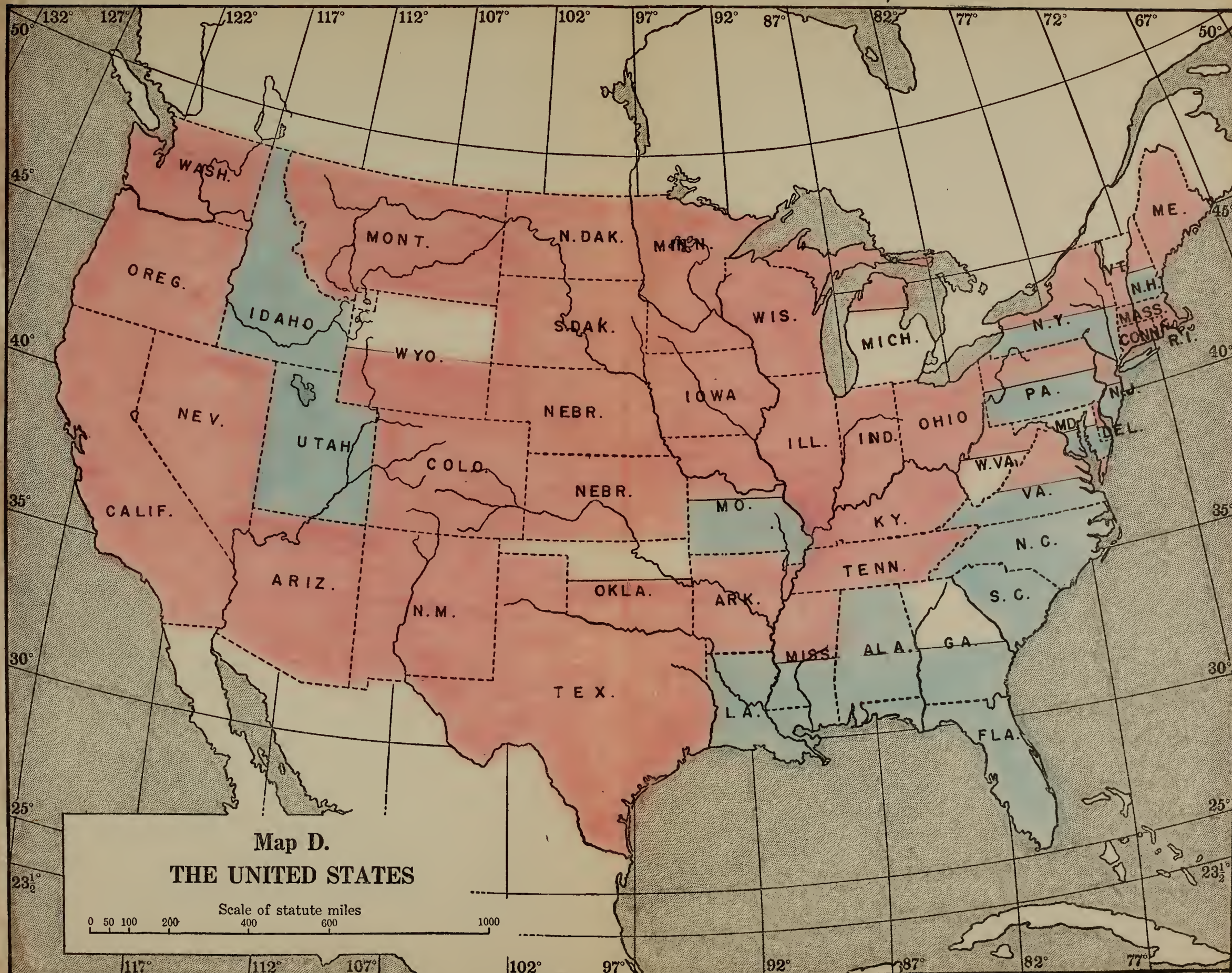


FIGURE 2. VOTE ON THE CHILD LABOR AMENDMENT, SENATE



terests although Senators from these states based their objections in the debate largely upon theories of states' rights and fear of socialistic tendencies. In New Hampshire, New York, Pennsylvania, New Jersey and Delaware the positive vote (along with that of other northeastern and middle Atlantic states) was probably connected with the general humanitarian philosophy of the time. Opposition in these states was founded on arguments similar to those used by the southern Senators, and motives cannot be any more definitely ascribed. It may be that strong manufacturing interests were responsible for this influence. In the House no one state's entire delegation voted against the amendment but the majority of members from Alabama, Florida, Georgia, Louisiana, Maryland, North Carolina, South Carolina, Texas, and Virginia either voted against, were paired against it, or did not indicate their stand. Scattered opposition in northeastern states cannot be explained much more satisfactorily than that in the Senate. In Pennsylvania, of the eight members who voted against the resolution, six represented Philadelphia districts, and one came from a section right outside that city. This attitude might have been tied up with the objection of the Philadelphia Manufacturer's Association at the committee hearing.⁵⁴ In Massachusetts two of the negative votes were cast by representatives from

⁵⁴ See Appendix II.

manufacturing cities, Boston and Somerville, but the other district whose member opposed it was not thus characterized. Other city representatives favored it, so conclusive significance is lacking.

It can be stated that the opinion held by a majority of members of Congress was favorable to the child labor amendment, that the middle west and western states were almost unanimous in their support, and that the principal opposition came from the cotton states of the South with scattered opposition from northeastern and middle Atlantic states. The support was probably due to general humanitarian interest in the problem of child labor and the belief that Congressional action was necessary, although favorable votes in some cases may have been cast because members were looking towards reelection in the fall. Opposition was partially caused by a sincere feeling that the amendment would give Congress power which rightfully belonged to the states and which could be exercised more advantageously in the states. Possibly some of the negative votes were influenced by the self-interest of manufacturing and agricultural employers of children.

CHAPTER IV

THE AMENDMENT BEFORE THE STATES

When Congress, in June of 1924, submitted to the states an amendment to the United States Constitution which would give to that body the "power to limit, regulate, and prohibit the labor of persons under eighteen years of age," its proponents were confident that ratification by three-fourths of the states would soon take place. But, either they overestimated popular sentiment favoring it, or they counted without the violent opposition that appeared and waged a campaign for rejection. Now, almost fourteen years later, ratification is still incomplete and the approval of eight more states (thirty-six in all) is required to make the amendment a part of the Constitution.¹

State action on the proposed amendment falls into definite periods. Out of twenty-four states considering it, in 1924 and 1925, only four ratified while the others rejected it by a vote of one or both houses in the legisla-

¹ Fig. 3 shows the states that have ratified up to the present, and the year during which the legislature took action in each case.

FIGURE 3. RATIFICATION OF THE CHILD LABOR AMENDMENT



ture.²

On these first ratification results, one author holds that:

Both sides had regarded Massachusetts as a key state and a very vigorous and heated campaign had been waged there. By the first of March, 1925, the rejection of the amendment for the time being was certain.³

From the end of 1925 to the first of 1933 action was reported for only five states. During 1926 Kentucky and Virginia rejected the amendment, in 1927 Montana ratified it while Maryland defeated it, and in 1931 Colorado approved it.⁴ Starting in 1933, a new wave of ratification swept the country and continued through 1935, but it has abated somewhat at the present. Twenty-two state legislatures approved the amendment, whereas only six had done so in the years prior to that.⁵ And of these twenty-two, nine had previously rejected it.⁶ Thus, the question of why ratification has not yet been completed is complicated by the length of time which has elapsed and by the several phases of state action during that time. To reach a satisfactory conclusion

² Ratified: Arizona, Arkansas, California, Wisconsin. Rejected: Connecticut, Delaware, Florida, Georgia, Idaho, Kansas, Maine, Massachusetts, Minnesota, New Hampshire, North Carolina, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Washington, and West Virginia. American Child, vol. XVII, (March 1935). (State law index not published for 1924).

³ E. S. Johnson, Child Labor Legislation, p. 449

⁴ State Law Index for years 1925 through 1932.

⁵ See Fig. 3

⁶ See note 2.

we must answer two questions; namely, what factors acted to prevent acceptance during the first few years the amendment was before the states, and what change brought the wave of ratification after 1932.

It cannot be truly said that national politics were of great import for the fate of the amendment. The Democratic National Platform in 1924 carried the following statement in regard to child labor: "We pledge the party to coöperate with the State Governments for the welfare, education, and protection of child life Without the votes of Democratic members of Congress the Child Labor amendment would not have been submitted for ratification." A suggested plank supporting ratification of the amendment was defeated in the Resolutions Committee. The amendment was not a subject of real contention, however, most of the discussion centering on the question of entry into the League of Nations, and on a plank defining the party's attitude toward the Ku Klux Klan.⁷ The text of the Republican Platform, as reported by the New York Times, contained no mention of the amendment.⁸ The Progressives in 1924 supported ratification, and their candidate for Vice President, Senator Wheeler of Montana, declared that the failure of the Democratic Party to endorse it effectively was one reason for Democrats like

⁷ New York Times, June 28 and 29, 1924.

⁸ June 12, 1924.

himself turning to the Progressive movement.⁹ It will be recalled that in spite of a fairly large scattered popular vote in 1924, the Progressives carried only the state of Wisconsin in the electoral college.

An impressive list of national organizations endorsing the child labor amendment has been published as an effective part of the supporter's argument for ratification.¹⁰ Among these the National Child Labor Committee, so influential in all federal and state child labor legislation, retained its leadership. Its executive secretary, Mr. Owen R. Lovejoy, had appeared at committee hearings conducted by both houses of Congress when the measure was being considered there.¹¹ Even before that, the Committee changed its quarterly magazine, The American Child, to a four-page, monthly bulletin. This step was taken because the period following the Supreme Court decision on the second federal law was considered a particularly critical one in the history of child labor regulation.¹² After the amendment resolution was approved by Congress, The American Child became an organ for ratification; practically every issue presented arguments for rati-

⁹ New York Times, September 14, 1924

¹⁰ See Appendix III.

¹¹ See pp. 58, 66.

¹² Nat. Child Labor Com., American Child, vol. IV, (Nov. 1922.)

fication and answered those put forth by the opposition. A very forceful means employed was that of showing in every possible instance, that people opposed to it were connected with manufacturing interests exploiting child labor.¹³ In addition to this bulletin, the Committee published copies of speeches, magazine and newspaper articles, and sent them out to numerous organizations. Material was prepared for holding discussion meetings on the proposed amendment and speakers were furnished.¹⁴ The Committee tried to arouse public interest and sentiment by cartoons, reports and stories illustrating deplorable cases of child labor in various industries throughout the country. Although opponents of the measure assailed these illustrations as representing isolated cases and consequently not valid reasons for a constitutional amendment, the facts brought to light were legitimately part of the propaganda for it; and they were probably more influential among the people than a well-reasoned argument on the inadequacy of state laws. This policy of exposing the worst conditions of child labor found in the country has been followed to date; and these conditions are nearly always used as an argument for a federal amendment.¹⁵ Nevertheless, this Committee has not rested all its hopes on ratification of

¹³ Ibid., vols. VI-VII., (July 1924-March 1925).

¹⁴ Idem.

¹⁵ Ibid., vol. XX (Feb. 1938).

the amendment but it has carried on a consistent drive for better state laws on child labor and for more efficient administration of existing statutes. It cannot be said that attention has been concentrated on the amendment for fourteen years; and during the period of restriction under codes of the National Industrial Recovery Act a large proportion of the Committee's attention was turned to State laws rather than to urging ratification of the amendment.¹⁶

The American Federation of Labor, also one of the organizations represented at Congressional hearings, has stood in back of the amendment continuously. Its repeated endorsement of the ratification cause, coupled with the large membership accredited to the Federation makes support of this body significant. Most of its influence was felt through the medium of speeches and articles addressed to various unions and wage earners in general, urging adoption.¹⁷ The support of women's organizations was likewise an important factor in the ratification campaign. Representatives of a number of national bodies met in September, 1924, to plan their action, and later a ratification committee was formed.¹⁸ In May, 1926, the General Federation of Women's Clubs adopted a resolution endorsing it.¹⁹ The National League of Women

¹⁶ Comparison of Nat. Child Labor Com., American Child, vols. XV-XVII (1933-1935) with same, vols. XI-XIV (1924-1932).

¹⁷ New York Times, Aug. 9, Nov. 22, 1924; Jan. 1, Feb. 12, 1925.

¹⁸ Ibid., Sept. 14, Oct. 18, 1924.

¹⁹ Ibid., May 30, 1926

Voters worked for adoption of the amendment, and local Leagues were active in influencing public opinion and state legislatures.²⁰ The associations of women carried on most of their work through discussion groups, and by sponsoring lectures, but they also played their part in petitioning state legislatures and issuing pamphlets to arouse public attention. It should be remarked that a fairly well organized body of support for ratification existed at the time the amendment was submitted to the states because the same instruments, often with the same individuals representing them, had worked for previous state and federal legislation and for the enactment of this amendment in Congress.

It might reasonably be supposed that the same was true of the opposing forces; but resistance to state laws had been a local affair almost entirely, and because of their limited application, the two federal statutes had not elicited so wide a field of objection as the constitutional amendment had.²¹ Moreover, it was evident at the first Congressional hearing in 1923 that the opposition was not so well organized as the elements advocating a child labor amendment.²² However, by 1924, it was apparent that those unfriendly to

²⁰ Nat. Child Labor Com., Handbook on the Federal Child Labor Amendment, p. 32; N.Y. Times, Nov. 9, 1924.

²¹ The age limit in the two federal laws was fourteen years for factories, canneries, etc., and sixteen for mines and quarries. Neither did the two statutes grant the general power which the proposed amendment did. See statement of laws. H. Rept. 395, 68 Cong., 1 sess.

²² See p. 63.

Congressional regulation of child labor were better coordinated,²³ and after the first five states had ratified the amendment, the agencies working against it showed unexpected strength. The National Child Labor Committee believes that ratification during the years 1924 and 1925 was prevented by the well-financed opposition of the National Association of Manufacturers, and the southern textile industry.²⁴ Enormous quantities of printed material that were distributed, the many articles and advertisements in newspapers, and radio talks at five dollars a minute indicated the financial resources controlled by adverse propagandists.²⁵ Certainly these factors were influential in its defeat, if not entirely responsible for it. The Manufacturer's Association repeatedly minimized the necessity for federal action,²⁶ and state Associations testified against ratification in their legislatures.²⁷

Rapid defeat in such cotton growing and textile

²³ See p. 67.

²⁴ Nat. Child Labor Com., Child Labor Facts, 1938, p. 11.

²⁵ Edward A. Macy, "Opposition Tactics against the Child Labor Amendment," The American Labor Legislation Review, vol. XV, (June 1925,) pp. 110-114.

²⁶ N. Y. Times, Aug. 18, 1924, Oct. 29, 1925; Oct. 27, 1926.

²⁷ Tennessee and Georgia, Nat. Child Labor Com., Handbook on the Federal Child Labor Amendment, pp. 38, 39.

manufacturing states as Georgia, North Carolina, South Carolina, and Texas²⁸ further corroborates the belief that southern textile interests carried on a vigorous campaign against it. Furthermore, an exposure made by Labor, the official newspaper of sixteen railroad labor organizations, demonstrated that the Farmers' States Rights League was not essentially composed of farmers at all. It was the organ of southern cotton manufacturers, and its chief agent was an employee of the Clark Publishing Company.²⁹ Mr. David Clark, who had hitherto acted in the interests of the textile industry,³⁰ owned this company. The League had flooded western newspapers with propaganda aimed to incite these farm states to concerted action against ratification.³¹ Articles emanating from this Farmers' States Rights League painted an exaggerated picture of effects the amendment would produce on agriculture, warning the farmer that it was aimed at him, and that all persons under eighteen would be prohibited from working, even to his own sons and daughters. One such letter signed, "Farmers' States Rights

²⁸ Georgia, North Carolina, South Carolina in 1924, and Texas in 1925.

²⁹ "Exposing Cotton Mills Fake Farmers' League," Labor, January 29, 1925. Quoted in part in "Opposition Propaganda at Work: Behind the Scenes" (editorial), The American Labor Legislation Review, vol. XV, No. 2 (June 1925), p. 122.

³⁰ See p. 65.

³¹ Four farm states being the first to ratify (Arkansas, Arizona, California, Wisconsin) may have precipitated this action.

League, Jeff Palmer, Agent, Troy, North Carolina," carried the following remark: "The million-dollar Federal bureaus operated by old maids and childless women ... think that the control of all children should be taken away from the parents and given to them"³² In spite of the illuminating comment upon the nature of this Farmers' League, its words were not wasted, and, either through its influence or for other reasons, many real farmers' organizations opposed ratification. The American Farm Bureau Federation had a representative who objected to the amendment at Congressional committee hearings although Congressmen present expressed doubt as to the sentiment of the Federation as a whole.³³ In November, 1924, the National Grange evidenced its disapproval of the measure at its annual meeting,³⁴ although not all state Granges opposed it. If the Representative who made the statement had definite knowledge of the Grange's attitude, this was a turnabout in opinion; for Mr. Michener said, at the House Judiciary Committee Hearing, that the Grange favored the amendment resolution.³⁵ Such a change might be attributed to the opposition propaganda directed toward agrarian interests. In 1935 after another group of

³² New York Times, September 3, 1924

³³ See pp. 70-72.

³⁴ N. Y. Times, Nov. 13, Nov. 22, 1924.

³⁵ H. Doc. 497, 66 Cong., 2 sess., p. 252

farm states had ratified, the American Farm Bureau Federation reversed its previous stand and endorsed the amendment. But other farm groups continued their opposition.

Other sources of objection were the American Constitutional League, Sentinels of the Republic, and such bodies. These patriotic groups had appeared at hearings of Congress; they objected to any further modification the United States Constitution.³⁶ Mr. Everett P. Wheeler of the Constitutional League made many pleas, publicly and in the press, for rejection of this amendment.³⁷ The Sentinels of the Republic called a conference of similar organizations to plan concerted action to prevent ratification.³⁸ In 1933, what appeared to be an offshoot from the "Sentinels" under the title of "National Committee for the Protection of Family, School and Church", was formed to defeat the amendment and the two groups carried on a well-financed and extensive campaign.³⁹

The attitude of the Catholic Church to the child labor amendment has aroused widespread interest. When

³⁶ See pp. 63, 67-70.

³⁷ N. Y. Times, Sept. 17, Dec. 30, 1924

³⁸ Ibid., Dec. 1, 1924

³⁹ Nat. Child Labor Com., Handbook on the Federal Child Labor Amendment, pp. 37, 38. An official of the Sentinels of the Republic, David F. Sibley of Boston, testified at a Senate lobby investigation in 1936 that "the organization had received annual contributions averaging \$6,000. from its inception up until 1935 and had devoted most of its funds to resisting the amendment." N. Y. Times, January 17, 1937.

Congress was considering the resolution, the attitude of this Church to such a grant of power was not expressed. However, some individuals and organizations connected with that faith favored it.⁴⁰ But in certain states the opposition of leaders in the Catholic Church became apparent. Arguments were based on the premise that the power would be construed to cover national control of education, and that federal control would interfere with the rights of parents and Church. In Massachusetts the religious opposition was believed to be responsible for rejection of the amendment in a popular referendum there.⁴¹ However, this opposition did not include all Catholic churchmen, for in late years a group of these people favoring the amendment have banded together to form the Catholic Citizens' Committee for Ratification of the Child Labor Amendment.⁴² Recently leaders of the Lutheran Church have appeared at hearings to oppose the amendment.⁴³

Newspapers throughout the country had at first been generally favorable to the child labor amendment, and it

⁴⁰ H. Doc. 497, 68 Cong., 2 sess., p. 71, 72. Statement of Miss Agnes G. Regan for the National Council of Catholic Women; Sen. Hearings p. 58, Statement of Rev. R. A. McGowan for the National Catholic Welfare Council.

⁴¹ N. Y. Times, Nov. 22, 1924.

⁴² Leaflet published by this Committee including an address by Frank P. Walsh, supporting Catholic endorsement and a list of members.

⁴³ Christian Science Monitor, April 6, 1938

was not until 1933, after the question of regulating news-boys under a code of the N I R A was suggested, that so many turned against it.⁴⁴ The possibility that this shift was influential in bringing about a change in public opinion is an interesting speculation but little more. The year, 1933, had already seen numerous ratifications, and the following years showed some; no conclusion is possible at this time.

The American Bar Association endorsed the amendment at first,⁴⁵ but by 1933 it had turned around, and opposed it because of the strong tendency toward centralization of government involved. The Association took a stand, instead, for uniform state laws.⁴⁶

Aside from organized groups which supported or opposed ratification of the child labor amendment some intangible influences must not be overlooked. "Public opinion," a vague term but signifying great potential strength, has been referred to in connection with the attitude of newspapers. It is difficult to ascertain with accuracy the strength of popular thought upon any subject, but such indications as exist deserve mention. Proponents of an amendment, and even those antagonistic, believed, when it was submitted to the states, that preponderant public sentiment favored it.⁴⁷

⁴⁴ Nat. Child Labor Com. Handbook on the Federal Child Labor Amendment, p. 41.

⁴⁵ Cong. Rec. 68 Cong., 1 sess., p. 7186.

⁴⁶ C. R. Woodruff, "The American Bar Association: Law Reform," The American Year Book, 1933, p. 149

⁴⁷ See p.

Certainly interest had been aroused, as demonstrated by the amount of periodical literature and the profusion of public addresses on the question, both approving and condemning it. But if, as opponents contended, the supporters had emotional or sentimental appeal on their side, surely this was offset by that traditional apathy to social questions which seemed to characterize the general public and legislative bodies alike. Proponents had to work actively to arouse interest in the proposal, and then to persuade legislatures of the states to approve it. Groups working for rejection had to combat the arguments advanced for it, but lack of interest on the part of state legislatures, aided the opposition. Action was necessary for ratification; inaction meant defeat.

But considerations other than enthusiastic support by numerous bodies or denunciation by others, and public opinion, or lack of it, influenced the fate of the child labor amendment. One difficulty was that Prohibition and agitation for repeal of the Eighteenth Amendment were injected into every discussion of amending the Constitution. The child labor amendment, when it was submitted to the states, entered a field already occupied.⁴⁸ Another influence was the industrial depression of 1929-1935. Large numbers of adults out of work made it seem ridiculous

⁴⁸ N. Y. Times, January 17, 1937.

that thousands of children should still be employed. People opposed to labor of children had long asserted that employing them was uneconomical, but the bare statement was ineffective. However, the census showed 3,187,547 persons ten years of age and over unemployed in 1930 in the two principal classifications of the census,⁴⁹ and even more the next year.⁵⁰ The same enumeration reported 2,145,959 persons from ten to seventeen years in gainful occupations,⁵¹ and these figures made the most of by those urging ratification of the amendment, undoubtedly had their effect. The liberal policies which President Roosevelt and the Democratic party advocated and the extent to which they permeated the United States had their effect in increasing support for the amendment. In 1933, fourteen states approved the amendment, and six of these had previously defeated resolutions to ratify. This action brought the total of states approving the amendment to nineteen. The codes of fair competition written for almost all industries under the National Industrial Recovery Act in 1933 and 1934 were undoubtedly potent influences in bringing about more enthusiasm for federal control of child labor. Up to the middle of 1934 approximately five hundred codes were prepared. All of them, with only limited excep-

⁴⁹ U. S. Census: 1930, Unemployment, vol. I, p. 6

⁵⁰ U. S. Census, 1930, Unemployment, vol. II (Ch. 5 on "Special Census of Unemployment, Jan. 1931." p. 366.

⁵¹ U. S. Census: 1930, Abstract of the Fifteenth Census of U. S., p. 335.

tions, carried straight prohibition of employment of persons under sixteen years of age and some provided that persons under eighteen should be excluded from hazardous employment. Some industries not covered by code, operated under wage and hour provisions of the nearest related code; others went by the President's Reemployment Agreement or a modification of it. This Agreement carried the same provisions for child labor as the codes. Notable exceptions to the occupations covered by these rules included some in which children were found in significant numbers. These were telegraph and telephone, meat packing, brewing and distilling, candy, cigar and cigarette manufacture, domestic service in private homes, commercialized agriculture and newspaper and magazine selling and distributing. Children in agriculture were regulated somewhat by the Agricultural Adjustment Act; but no agreement could be reached on age limits in the magazine and newspaper lines of child employment. In spite of the exceptions, limitation of child labor under the N I R A amounted to virtual cessation of employment for persons under sixteen years of age.⁵²

The National Industrial Recovery Act was, however, declared unconstitutional in 1935. Its cessation did not have the effect of increasing advocacy of the federal amendment for regulation of child labor. In four states

⁵² Frank H. Vizetelly, ed., New International Year Book, 1934, "Child Labor" pp. 135-6.

resolutions for ratification were introduced in the legislatures, and in all of them the proposals were killed in committee or defeated in the law-making houses.⁵³ Moreover, the net result of the codes as affecting child labor seemed to be negative, for conditions were reported similar to those in the early history of child labor exploitation,⁵⁴ and the opposition which the proposed code for newspaper and magazine distribution aroused among such forces as the American Newspaper Publishers Association brought a renewed attack on the child labor amendment by newspapers throughout the country. Dependable authorities as well as interested lawyers, trace this marked hostility to fear that a vested interest (i.e. right to employ children in selling and distributing newspapers) was jeopardized.⁵⁵ Results in 1934 may have been brought about by this influence or by others. The amendment was brought up for consideration in nine states, and was rejected in all, either by committees or by vote in the legislature.⁵⁶

Early in 1937 President Roosevelt wrote to the Governors of the nineteen states whose legislatures held

⁵³ Ibid., 1936, "Child Labor", p. 150. The four states were Massachusetts, Mississippi, New York, Rhode Island.

⁵⁴ Nat. Child Labor Com., American Child, Vols XVII, XVIII, (1935, 1936).

⁵⁵ Frank H. Vitezelly, ed., New International Year Book, 1934, "Child Labor", p. 134-136.

⁵⁶ Kentucky, Louisiana, Massachusetts, Mississippi, New York, Rhode Island, South Carolina, Texas, Virginia, Loc. cit.

regular sessions that year urging them to make ratification of the amendment a major item in their programs. In spite of this plea, only four states ratified during that year (Kansas, Kentucky, Nevada, and New Mexico).⁵⁷ In 1938 New York rejected proposals to ratify for the third time in four years.⁵⁸ Massachusetts also considered the amendment this year but rejected it as before.

At a hearing in Massachusetts on proposals for ratification the chief opponents were religious and educational leaders. Among them were Dr. A. Lawrence Lowell, President Emeritus of Harvard University; Joseph R. Hamlin, President of the Constitutional Liberty League; Rev. Thomas R. Reynolds of the St. Mathew's Roman Catholic Church in Dorchester; Rev. George O. Lillegard of the Lutheran Church. Rev. Mr. Reynolds who was introduced as representing Cardinal O'Connell, Archbishop of Boston, said in part: "We hate child labor, but this is not a child labor proposition. Acceptance of this law would take control of the children from their parents and give it to Congress." Other Roman Catholic leaders were recorded as opposing the amendment.⁵⁹ President Joseph R. Hamlin of the Constitutional Liberty League declared: "After witnessing how Congress acted in the matter

⁵⁷ N. Y. Times, January 17, 1937.

⁵⁸ Ibid., February, 16, 1938.

⁵⁹ Christian Science Monitor, April 6, 1938.

of prohibition we cannot trust it to be moderate in the matter of child labor." Dr. Lowell also objected to the sweeping power granted by the proposed amendment.⁶⁰

One of the arguments against ratification was that federal regulation of child labor was rendered unnecessary by the fact that states were caring for the problem adequately. It is admitted that different opinions exist as to what constitute "adequate" standards in child labor legislation. But on the basis of those adopted in the two previous federal laws, only thirteen states measured up in every particular in 1923.⁶¹ And from 1923 to 1929 fewer states took steps to come up to these standards than in any six-year period from 1899 to 1905.⁶² The improvements made in state laws up to October 1929 may be learned by referring to a survey of such legislation published by the Children's Bureau.⁶³ Without regard for exceptions to the laws, efficiency of administration, or educational requirements, the legal status of child workers in 1929 was regulated as follows:

In all except two States the minimum age for work, at least in factories and often in many other employments, is placed as high as 14 years, and seven States have an age minimum of 15 years or over. Thirty-six

⁶⁰ Boston Traveler, April 6, 1938.

⁶¹ See p. 31.

⁶² E. S. Johnson, Child Labor Legislation, p. 451.

⁶³ U. S. Dept. of Labor, Children's Bureau, Pub. 197, Child Labor: Facts and Figures, pp. 39-119.

States provide an 8-hour day or 44 or 48 hour week for children under 16, and 43 prohibit their work at night.⁶⁴

In 1937, thirty-three states had a fourteen-year minimum for work during school hours, four states had a fifteen-year limit and ten states prohibited it under sixteen years, while only one state had no general minimum age. Forty-two states provided for an eight-hour day and forty states a forty-four or forty-eight-hour week, although in a few of these the regulation did not extend to persons up to sixteen years of age. Only ten states permitted work until eight o'clock at night or had no regulation.⁶⁵ These changes in state laws mark a definite improvement over the regulations in 1924.⁶⁶ But the fact that states had not adopted a uniform law for control of child labor (so that inequalities as well as some bad working conditions still existed) was an influential argument for ratification of the constitutional amendment.

Editorially, The Literary Digest, in 1925, attributed failure of ratification to several factors.⁶⁷ First were the people who held the brief that the "expansion of cen-

⁶⁴ Ibid., p. 39

⁶⁵ Nat. Child Labor Com., Child Labor Facts, 1938 pp. 13-15; Exceptions to these standards and enforcement of laws are not accounted for in this summary.

⁶⁶ See pp. 31-34.

⁶⁷ Literary Digest, "Why The Child Labor Amendment Failed," vol. 34 (Feb. 7, 1925), p. 10-11.

tralized bureaucracy has gone far enough.⁶⁸ Next it said that the age limit was placed too high to suit earning, manufacturing, and farming interests; in effect that these interests were to blame for its defeat. In addition, the wording of the amendment was charged with preventing its ratification because it was so general as to offer many interpretations.⁶⁹

One authority virtually agrees with this analysis in a later verdict: "Their opponents' of the amendment success was probably due in considerable measure to the very wide grant of power which it sought to give to the federal government."⁷⁰

The conclusions reached in this study as to why ratification has not been completed are summarized briefly. In the early years after 1924, the strong opposition of the National Association of Manufacturers, the southern textile interests, and organizations such as the Sentinels of the Republic was probably responsible for failure of ratification. The hostile attitude of farm organizations, probably developed from the "alarm methods" employed by farm groups (both "faked" and real), was also an influential factor. After the wave of ratification in 1933, the unfavorable attitude

⁶⁸ Loc. cit., quoting Boston Herald, January 27, 1925

⁶⁹ Loc. cit.

⁷⁰ Johnson, op. cit., p. 449.

of many newspapers was added to the causes of failure. But the reason behind all this opposition and what was ultimately responsible for the failure of ratification, was the general wording of the amendment which allowed of such broad interpretation as to its effect. If the age limit had been put at sixteen or fifteen years in closer harmony with most state laws at that time, the accusation that it aimed at "regimentation of youth" could not have gained such a hearing. If the power "to prohibit" had been omitted, leaving the right "to limit and regulate," the strongest opposition of the farmers would have been removed. If regulation had been confined to specified occupations, or if labor in the home, or for parents, had been excepted, the argument assailing it as interfering with the home and family would have lost their footing. Whether an amendment so modified would have served the purpose outlined by proponents of Congressional power to regulate child labor is a question that cannot be answered here. It is merely stated as a conclusion reached through the present study that the very general wording of the proposed amendment has probably been responsible, in the final analysis, for failure of ratification to date.

Many questions have arisen regarding the legality of ratification of the child labor amendment. One of the first of these was whether rejection by legislatures of thirteen states automatically killed the amendment. The

Constitution (Article V) makes no such provision, merely saying in part:

amendments . . . shall be valid to all intents and purposes as part of this Constitution, when ratified by the legislatures of three-fourths of the several states, or by conventions in three-fourths thereof.

Moreover, the Department of State has officially accepted ratification results from states after over one-fourth of the states had rejected the proposed amendment. As to whether a state legislature can reverse the action of a previous legislature on a federal amendment, one authority has decided: "The better view seems to be that a ratification is irrevocable, but that rejection of . . . is to be regarded merely as an emphatic failure to ratify and may be overruled by subsequent action."⁷¹ Here, too, the Department of State has substantiated the opinion of its action. The Fourteenth Amendment was adopted through the ratification by states which had previously rejected it and, although Ohio and New York first ratified, and then voted to reject, they were counted among the ratifying states.⁷² This opinion of constitutional lawyers together with the construction placed upon the amending clause by the Government in times

⁷¹ Robert Eugene Cushman, Leading Constitutional Decisions (5th ed.), discussing Hauke v. Smith 253 U.S. 221, (1920), p. 2.

⁷² Charles A. Beard, American Government and Politics, (7th ed.) p. 37

past, while not settling the issue, points to the probable interpretation the Supreme Court would give it if confronted with the question.

As to the length of time an amendment is open to ratification, we have no Supreme Court ruling, arguments of the opposition to the child labor amendment notwithstanding. Only three amendments have stipulated a definite time limit (seven years), after which ratification would be invalid, the Eighteenth, Twentieth, and Twenty-First. After the prohibition amendment had been promulgated as the law of the land, it was charged that ratification was unlawful because the specification of a time limit was contrary to the Constitution. In the case of *Dillion v. Gloss*⁷³ the decision of the Supreme Court was that it could be inferred from the Constitution (Article V) that "ratification must be within some reasonable time after the proposal." Therefore, the Eighteenth Amendment was not rendered invalid by the clause restricting ratification to seven years.⁷⁴ This does not say that seven years constitutes the reasonable length of time, but only that it falls within the limits of a reasonable time. In two states, Kansas and Kentucky, ratification of the child labor amendment has been challenged, and differing opinions have been handed down by the two

⁷³ 256 U.S. 368 (1921) cited in Cushman, op. cit., p. 2.

⁷⁴ Cushman, op. cit., p. 2

State Courts.⁷⁵ Kansas had previously rejected the amendment in 1925, and Kentucky in 1926. Following that, the state legislature in each voted to approve the amendment in 1937. Both cases involve the points: (1) whether ratification after prior rejection is valid, and (2) whether the length of time intervening since the amendment's submission by Congress has rendered it impotent. The two cases have been accepted for review by the United States Supreme Court and will probably be heard at the fall session in 1938.⁷⁶ The ruling of the Court, upon the reasonable time question in particular, is awaited with great interest but it is unpredictable. There is some assurance that custom will determine the decision of the legality of ratification after prior rejection, but it is difficult to picture the Supreme Court taking upon itself the right of dictating the specific length of time which is reasonable for ratification.

⁷⁵ The Kansas Supreme Court upheld the validity of ratification while the Kentucky Court of Appeals ruled it "void and ineffective." Christian Science Monitor, March 30, 1938.

⁷⁶ Nat. Child Labor Com., Child Labor Facts, 1938, p. 12, and letter to the author from that Committee.

CONCLUSION

The foregoing investigation has produced certain conclusions in regard to the history of the child labor amendment. Some of these may be stated without qualifications as evident facts, but others must be regarded as probabilities. Answers to most of the questions raised in the introduction fall in the latter class.

The struggle for federal regulation of child labor was started in 1906 as a part of the Progressive movement of that era. The humanitarian tendencies of that time resulted in a new concern for the large numbers of children employed. Conditions of work were often bad, and some individuals believed that the action which states were taking to control child labor was too slow, and that it was inadequate. Support for a national law was not widespread, however, and not until President Wilson personally insisted on federal child labor legislation in 1916 was a law passed. The Constitution does not provide for any social or labor legislation by Congress; hence, this regulation of child labor was based upon the interstate commerce clause. In 1918, the Supreme Court declared the law unconstitutional, and in 1919, the Congress passed a law to regulate child labor under the taxing power. That, too, was invalidated by the Court in 1922. Agitation started immediately for an amend-

ment to the Constitution which would confer on Congress the power to legislate directly for child labor. It was considered necessary to make provisions for continued national control of the employment of children because the 1920 census showed over one million between the ages of ten and fifteen gainfully occupied in the United States. An increase in the number of employment certificates issued for children in 1923 and 1924 indicated that the numbers working had grown since the second federal law had ceased to operate. Proponents of an amendment contended that state laws did not provide adequate protection for children, and that a uniform standard for the whole country was necessary. Both Democratic and Republican national platforms endorsed effective national control of child labor and President Coolidge advocated an amendment in his speech to Congress. The President of the American Federation of Labor called a conference in the summer of 1922 to discuss the child labor question, and members of that conference drafted an amendment resolution. Senator McCormick introduced this resolution in Congress, but the wording was changed before the Judiciary Committee recommended it in 1923.

The Congress of the United States considered proposals for a child labor amendment in 1923 and 1924. During the last session of the sixty-seventh Congress the Senate Committee on the Judiciary conducted hearings to listen to

arguments of interested parties. Advocates of an amendment included representatives of many organizations. Chief among these were the American Federation of Labor, the Government Children's Bureau, the National Child Labor Committee, National Consumers' League, Republican and Democratic National Committees, and many women's clubs and federations. Opposition was limited to representatives of southern cotton manufacturers and of a Constitutional League, and to a few individuals. An amendment was favorably reported by the Judiciary Committees in both houses, but it was not brought to debate or vote in that Congress.

In 1924, during the first session of the sixty-eighth Congress, the House Judiciary Committee held public hearings on proposed child labor amendments. Practically the same groups supported the measure as had at the Senate hearing, but the opposition was augmented. New opponents represented included National and State Manufacturers' Associations, the American Farm Bureau Federation, and many groups which were opposed to any amendment of the Constitution. Witnesses at the House hearing presented essentially the same arguments as had those at the earlier investigation by the Senate. Representatives of the United States Children's Bureau and the National Child Labor Committee presented the most forceful arguments in support of an amendment. They quoted census figures to show the large numbers of children employed,

and compared the provisions of state laws with standards of the previous federal laws to demonstrate the inadequacy of state action. They maintained that conditions existed which could only be rectified by uniform regulation.

Supporters further pointed to the large groups which favored federal control as evidence that it was clearly the duty of Congress to submit an amendment to the states. Leaders of the opposition were representatives of southern textile manufacturers, of Manufacturers' Association, of the American Farm Bureau Federation, and of patriotic organizations trying to prevent any further amendment of the Constitution. Their chief arguments were that federal control of child labor was an unwarranted centralization of government, and that an amendment was unnecessary because child labor had decreased from 1910 to 1920, and because states were taking care of the problem adequately, and could continue to do so.

The House Judiciary Committee was divided in opinion on the amendment and submitted two reports. The majority report recommended that there be submitted to the states an amendment giving Congress "power to limit, regulate, and prohibit the labor of persons under eighteen years of age." The minority report of the Committee was delivered by its chairman, Mr. Graham of Pennsylvania, and signed by members from New York, South Carolina, and Virginia. It stated their objections to the proposed resolution which were

based on the same grounds as arguments summarized above. The Senate Committee, without further hearings, endorsed the same amendment.

Committee recommendations were undoubtedly influential in producing Congressional action on the resolution for a child labor amendment. But, since the Judiciary Committees were not unanimously in favor, the measure cannot be judged the result of concerted support on the part of those groups. Neither was it specifically an administration measure. In one way the path had been cleared for this amendment by the previous federal laws. Successful operation of these laws had overcome much of that traditional resistance to innovations in method of regulation. Large groups in each house actively supported the amendment, but these groups did not adhere to party lines. In a Congress having a majority of Republicans, many Republicans and almost as many Democrats (including some prominent ones) favored it. Numerous Democrats and few Republicans opposed it. An analysis of the Congressional vote shows that opposition was largely regional. Members from the South Atlantic and East South Central States were generally adverse to the amendment. Senators and Representatives from Western, Middle Western, and Central States almost unanimously endorsed the measure, although both Senators from Idaho and Utah opposed it. Congressmen from Northeastern and Middle Atlantic States were, in the main, favorable; they evinced only scattered opposition.

Debates in Congress followed the same outline as the arguments presented at committee hearings. Testimony in regard to census statistics and state laws was quoted, and many examples of conditions requiring federal regulation were cited. Supporters pointed to the large groups favoring the amendment as a reason for submitting it to the states. Opponents emphasized the tendency toward over-centralization of government, and objected to the broad grant of power contained in the amendment.

Most of the negative votes on the resolution were cast by representatives of cotton-growing states. The large numbers of children employed in agriculture and in the cotton textile industry in these states made it seem probable that the opposition of these members was motivated by the desire to prevent interference with the supply of cheap labor in the South. It is impossible to explain accurately the objections of members representing Northeastern and East North Central States. The opponents were undoubtedly influenced by fear of over-centralized or bureaucratic government, but there is also evidence that the antagonistic attitude of manufacturing interests was a contributing cause.

The favorable votes cast by over two-thirds of the members of Congress are more easily explained. Majority recommendations from both Judiciary Committees probably figured as an important reason. Members were impressed by

the number of national organizations backing the amendment, and by the feeling that popular sentiment in the nation favored the measure. It was decided that a majority of Congressmen from the West, Middle West, Central, East North Central, and Northeastern States supported the amendment because they felt that federal regulation of child labor was necessary, because they sincerely thought the country wanted it, and possibly, because they were looking toward the next election.

Much of the evidence that was compiled concerning the amendment before the states is too incomplete to be conclusive. It was found that the action of state legislatures on the amendment was divided into definite periods. From its submission in 1924 up through 1925, twenty-four states considered proposals to ratify, and all but four states rejected. From the end of 1925 to the first part of 1933, only five states took definite action and only two ratified the amendment. Starting in 1933, a wave of ratification swept the country; twenty-two states approved the child labor measure, nine of the twenty-two having previously rejected it.

The large number of adverse decisions in 1924 and 1925 were probably due to the propaganda of several organizations (principally the Sentinels of the Republic and the Farmers' States Rights League), to the opposition manifested by farmers' and manufacturers' associations, and to the predominance of the prohibition and repeal issues.

The opinion that defeat in Massachusetts had been caused by the resistance of the Catholic Church may have brought about opposition from Church members elsewhere. After 1926, the feeling that rejection of the amendment was assured was largely responsible for inaction from then to 1933. Then, when the industrial depression which started during those years threw large numbers of adults out of work, the anomaly of adults idle while children worked was conducive to the shift in public opinion that resulted in favorable action by many states in 1933. President Roosevelt's policies in general, and codes set up by the National Industrial Recovery Act in particular were among the influential factors bringing about ratification. It may be that the operation of the codes tended to defeat the amendment, because they seemed to take care of the child labor problem and so to remove the necessity for further regulation at least for the period of their operation starting in 1933 or 1934 and ending in 1935. After 1935, the ratification process again slowed up. This change is attributed to the renewed opposition of various organizations, to the reversal in newspaper editorial opinion, and to the opinion that ratification might be held invalid because the amendment had been before the states for such a long period, and because over one-fourth of the states had rejected it.

The geographical distribution of ratification follows

the same pattern as that of the Congressional vote. Western States have all accepted the amendment; the Middle West, Central, and East North Central States have ratified with few exceptions; but some Northeastern and Middle Atlantic States have failed to ratify, while almost all South Atlantic and East South Central States have remained opposed. The sectional opposition was probably caused by agriculturalists and textile manufacturers in the South and Southeast, and it may have been due to manufacturers' associations and to the Roman Catholic Church in the North. The attitude of South Dakota and Nebraska is unexplained unless farmers' organizations were powerful enough to defeat ratification there.

Finally it was concluded that rejection (or, at least, insufficient ratification) of the child labor amendment from 1924 to the present was ultimately caused by the very general grant of power contained in the measure. The terms used were so inclusive that they were open to varied interpretations. It is probable that exaggerated interpretations as to the effect of the amendment have been responsible for the failure of ratification.

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APPENDIX I

Persons who presented testimony at the hearing
before a subcommittee of the Senate Judiciary
Committee on proposed child labor amendments,
January 1923

1. Supporting an amendment:

Miss Grace Abbott as Chief of Children's Bureau, U. S. Department of Labor

Miss Emily Newell Blair as Vice Chairman, Democratic National Committee statement read

Miss Selma Borchardt as representative of American Federation of Teachers, Washington, D. C.

Miss Elizabeth Eastman as representative of National Board of Young Women's Christian Association

Mr. Samuel Compers as President, American Federation of Labor

Mrs. Florence Kelley as General Secretary, National Consumers' League, New York

Miss Julia Lathrop as former Chief of Children's Bureau, U. S. Department of Labor

Mr. William Draper Lewis as representative of National Child Labor Committee from Philadelphia, Pennsylvania

Mr. Owen R. Lovejoy as General Secretary, National Child Labor Committee, New York

Rev. R. A. McGowan as President, National Catholic Welfare Council, Washington, D. C.

Mrs. John Jay O'Connor as representative of National League of Women Voters, Washington, D. C.

Mrs. Agnes Regan as Secretary, National Council of Catholic Women

Mrs. Maud Schwartz as representative of National Women's Trade Union League, New York

Miss Mary Stewart as Legislative Chairman, National Federation of Business and Professional Women's Clubs, Washington, D. C.

Mrs. Lucy R. Swanton, Washington, D. C.

Mr. Wiley H. Swift as member of staff of National Child Labor Committee from Greensboro, North Carolina

Hon. Albert Thomas as Director, Bureau of International Labor, Geneva, Switzerland

Mrs. Harriet Taylor Upton as Vice Chairman, Republican National Committee

Mrs. Arthur C. Watkins as Executive Secretary, National Congress of Mothers and Parent-Teachers' Associations, Washington, D. C.

Rev. Dr. E. O. Watson as Secretary, Federal Council of Churches of Christ in America, Washington, D. C.

Mrs. Alexander Wolf as Chairman, Committee on Education, Council of Jewish Women

Mrs. Ellis Asby Yost as Legislative Representative, National Women's Christian Temperance Union, Washington, D. C.

2. Opposing an amendment:

Mr. F. F. Carter as Executive Officer and Secretary, Child Welfare Department of North Carolina

Mr. David Clark as Editor, The Textile Bulletin, Charlotte, North Carolina

Mr. Edward F. Dickinson, Billerica, Massachusetts statement read

Mr. A. H. Gibert, Jr. as Chief Inspector, Department of Agriculture and Labor of State of South Carolina

Mrs. K. B. Johnson as Commissioner of Welfare of North Carolina

State Senator W. L. Long, North Carolina

Mr. Everett P. Wheeler as Chairman, Executive Committee,
American Constitutional League, New York

APPENDIX II

Persons presenting testimony at the hearing before
the House Judiciary Committee on proposed child labor
amendments, February and March 1924

1. Supporting an amendment:

Miss Grace Abbott as Chief of Children's Bureau, U. S. Department of Labor

Miss Emily Newell Blair as Vice Chairman, National Democratic Committee statement inserted

Hon. William P. Connery, Jr. as Member of Congress from Massachusetts

Hon. Henry Allen Cooper as Member of Congress from Wisconsin

Hon. Frederick W. Dallinger as Member of Congress from Massachusetts

Hon. Louis A. Frothingham as Member of Congress from Massachusetts

Hon. Walter F. Lineberger as Member of Congress from California

Mr. Owen R. Lovejoy as Executive Secretary, National Child Labor Committee, New York

Miss Agnes G. Regan as Executive Secretary, National Council of Catholic Women, Washington, D. C.

Hon. John Jacob Rogers as Member of Congress from Massachusetts

Miss Mary Stewart as Chairman, Women's Committee for a Child-Labor Amendment

Hon. Peter F. Tague as Member of Congress from Massachusetts

Mrs. Harriet Taylor Upton as Vice Chairman, National Executive Committee of the Republican Party, Washington, D. C.

Mr. Edgar Wallace as representative of the American Federation of Labor, Washington, D. C.

Mr. E. O. Watson as Secretary, Federal Council of Churches of Christ in America, Washington, D. C.

2. Opposing an amendment:

Mr. John H. Adrianns, Attorney at Law, Washington, D. C.

Mr. Thomas F. Cadwalder, Baltimore, Maryland

Mr. T. F. Carter as Executive Secretary, Child Welfare Commission of North Carolina

Mr. George L. Cooley of Cuyahoga County, Ohio

Mr. Louis A. Coolidge as Chairman, Sentinels of the Republic, Boston, Mass.

Mr. Edward F. Dickinson, Massachusetts

Mr. James A. Emery as General Counsel, National Association of Manufacturers of the United States

Austen G. Fox, Esq. as representative of Moderation League, New York City.

Mrs. Rufus B. Gibbs as Legislative Chairman, Federation of Democratic Women, Baltimore, Maryland

Dr. James A. Hayne as Executive Officer, South Carolina Board of Health as quoted in a study of the cotton industry of North and South Carolina by Ashmund Brown

Mrs. Ruben Ross Holloway as representative of the Women's Constitutional League of Maryland

Mrs. Kate B. Johnson as Chairman, State Child Welfare Commission of North Carolina

Mr. Willis R. Jones, Attorney at Law, Baltimore, Maryland asked to speak by Women's Constitutional League of Maryland

Miss Mary D. Kilbreth as President, Women's Patriotic Publishing Company

Mr. Simon Miller, Textile Manufacturer, Philadelphia, Pennsylvania

- Mr. Henry W. Moore as representative of Pennsylvania Manufacturers' Association, Philadelphia, Pennsylvania
- Dr. Charles O'Donovan, practicing physician, Baltimore, Maryland
- Mr. Charles T. Rawles, Baltimore, Maryland
- Mr. Gray Silver as Washington Representative, American Farm Bureau Federation
- Mr. W. H. Walker as representative of local American Farm Bureau Federation, Willow, California, and of the "organized truck and fruit growers' association" of Cleveland, Ohio
- Mr. Charles J. Webb, Philadelphia, Pennsylvania

APPENDIX III

National organizations which endorse the child
labor amendment
(National Child Labor Committee, Handbook on the
Federal Child Labor Amendment, 1937)

American Association of Social Workers

American Association of University Women

American Farm Bureau Federation

American Federation of Labor

American Home Economics Association

American Legion

American Nurses' Association

American Unitarian Association

Association for Childhood Education

Camp Fire Girls

Central Conference of American Rabbis

Council of Women for Home Missions

Federal Council of the Churches of Christ in America

Fraternal Order of Eagles

General Federation of Women's Clubs

Girls' Friendly Society of America

Methodist Board of Home Missions and Church Extension

National Federation of Business and Professional Women's Clubs

National Child Labor Committee

National Congress of Parents and Teachers

National Consumers' League

National Council of Jewish Women

National Education Association

National Federation of Settlements

National Federation of Temple Sisterhoods

National League of Women Voters

National Woman's Christian Temperance Union

National Women's Trade Union League

Northern Baptist Convention

Presbyterian Church in the U. S. A.

The Railroad Brotherhoods

Reformed Church in America

Women's General Missionary Society of United Presbyterian
Church

Young Women's Christian Association

APPENDIX IV

Analysis of Congressional vote on the child labor amendment showing political affiliation and vote by states

State	House	Delegation in Congress	Yeas	Nays	Not voting
Alabama	S	2 Dem.		1	1 (paired against)
	H	10 Dem.	2	8	
Arizona	S	1 Dem.	1		
		1 Rep.	1		
	H	1 Dem.	1		
Arkansas	S	2 Dem.	2		
	H	7 Dem.	5	2	
California	S	2 Rep.	2		
	H	2 Dem.	2		
		9 Rep.	6	1	2 (1 paired for)
Colorado	S	1 Dem.	1		
		1 Rep.	1		
	H	1 Dem.	1		
		3 Rep.	3		
Connecti- cut	S	2 Rep.	2		
	H	1 Dem.	1		
		4 Rep.	3	1	
Delaware	S	1 Dem.		1	
		1 Rep.	1		
	H	1 Dem.	1		
Florida	S	2 Dem.		2	
	H	4 Dem.		1	3
Georgia	S	2 Dem.		1	1
	H	12 Dem.	1	7	4 (2 paired against)
Idaho	S	2 Rep.		2	
	H	2 Rep.	2		

State	House	Delegation in Congress	Years	Days	Not voting
Illinois	S	2 Rep.	2		
	H	7 Dem.	7		
		20 Rep.	15		4 (1 paired for)
Indiana	S	1 Dem.			1
		1 Rep.	1		
	H	5 Dem.	5		
		8 Rep.	5	1	1 (paired for)
Iowa	S	2 Rep.	2		
	H	11 Rep.	11		
Kansas	S	2 Rep.	2		
	H	1 Dem.	1		
		7 Rep.	6	1	1 (paired for)
Kentucky	S	1 Dem.	1		
		1 Rep.	1		
	H	8 Dem.	7	1	
		3 Rep.	2		1
Louisiana	S	2 Dem.		2	
		7 Dem.	3	4	
		1 vacancy			
Maine	S	2 Rep.	2		
	H	4 Rep.	4		
Maryland	S	1 Dem.		1	
		1 Rep.			1
	H	3 Dem.		3	
		3 Rep.	1	1	1
Massachu- setts	S	1 Dem.	1		
		1 Rep.	1		
	H	3 Dem.	2		1 (paired for)
		13 Rep.	8	3	2 (1 paired for)
Michigan	S	1 Dem.			1
		1 Rep.			1
	H	1 Dem.	1		
		12 Rep.	10		2 (paired for)
Minnesota	S	2 F-L	2		
	H	8 Rep.	4		4 (1 paired for)
		1 F-L			1
		1 Ind.	1		

State	House	Delegation in Congress	Years	Days	Not voting
Mississippi	S H	2 Dem. 6 Dem.	1 4	1 2	2 (1 paired for, 1 paired against)
Missouri	S H	1 Dem. 1 Rep. 11 Dem. 5 Rep.	1 10 4	1 1	1 (paired for)
Montana	S H	2 Dem. 1 Dem. 1 Rep.	1 1 1		1
Nebraska	S H	2 Rep. 3 Dem. 3 Rep.	2 3 1		2
Nevada	S H	1 Dem. 1 Rep. 1 Dem.	1 1 1		
New Hamp- shire	S H	2 Rep. 1 Dem. 1 Rep.	1	1	1 (paired for) 1
New Jersey	S H	1 Dem. 1 Rep. 5 Dem. 6 Rep.	1 1 5 5	1	1 (paired for) 1 (paired for)
New Mexico	S H	1 Dem. 1 Rep. 1 Dem.	1 1 1		
New York	S	1 Dem. 1 Rep. 22 Dem. 21 Rep.	1 19 15	1	3 (1 paired for) 6 (1 paired for, 2 paired against)
North Caro- lina	S H	2 Dem. 10 Dem.	4	2 5	1 (paired against)
North Dakota	S H	2 Rep. 3 Rep.	2 3		

State	House	Delegation in Congress	Years	Days	Not voting
Ohio	S	2 Rep.	2		
	H	6 Dem.	6		
		16 Rep.	13	1	2 (1 paired for)
Oklahoma	S	1 Dem.			1
		1 Rep.	1		
	H	7 Dem.	5		2
		1 Rep.	1		
Oregon	S	2 Rep.	2		
	H	1 Dem.	1		
		2 Rep.	2		
Pennsyl- vania	S	2 Rep.	1	1	
	H	6 Dem.	6		
		30 Rep.	15	5	10 (3 paired for, 3 paired against)
Rhode Island	S	1 Dem.	1		
		1 Rep.	1		
	H	1 Dem.	1		
		2 Rep.	2		
South Carolina	S	2 Dem.		2	
	H	7 Dem.	1	3	3 (1 paired against)
South Dakota	S	2 Rep.	2		
	H	3 Rep.	3		
Tennessee	S	2 Dem.	2		
	H	6 Dem.	6	2	
		2 Rep.	2		
Texas	S	2 Dem.	2		
	H	17 Dem.	7	9	1 (paired against)
		1 Rep.			1 (paired for)
Utah	S	1 Dem.		1	
		1 Rep.		1	
	H	2 Rep.	2		
Vermont	S	2 Rep.	1		1
	H	2 Rep.	2		
Virginia	S	2 Dem.	1	1	
	H	10 Dem.	2	8	

State	House	Delegation in Congress	Years	Days	Not voting
Washington	S	1 Dem.			1 (paired for)
		1 Rep.	1		
	H	1 Dem.	1		
		4 Rep.	4		
West Virginia	S	1 Dem.	1		1
		1 Rep.			
	H	4 Dem.	3		1
		2 Rep.			2 (1 paired for)
Wisconsin	S	2 Rep.	2		
	H	10 Rep.	10		
		1 Soc.	1		
Wyoming	S	1 Dem.	1		1
		1 Rep.			
	H	1 Rep.	1		

S--Senate

H--House of Representatives

Dem.--Democrat

Rep.--Republican

Soc.--Socialist

F&L--Farmer-Labor

Ind.--Independent

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